

12/17/04

THE HONORABLE MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

COSTCO WHOLESALE CORPORATION, a
Washington corporation,

Plaintiff,

v.

ROGER HOEN, VERA ING, and MERRITT
LONG, in their official capacities as members
of the Washington State Liquor Control Board;

Defendants, and

WASHINGTON BEER AND WINE
WHOLESALE ASSOCIATION, a
Washington non-profit corporation;

Intervenor Defendant.

NO. CV04-360P

ANSWERS AND OBJECTIONS OF
DEFENDANTS TO

PLAINTIFF'S FIRST
INTERROGATORIES TO
DEFENDANT VERA ING

Plaintiff Costco Wholesale Corporation propounds the following interrogatories to
Defendant Vera Ing, pursuant to Federal Rules of Civil Procedure 26 and 33.

INSTRUCTIONS

1. These interrogatories are to be answered separately and fully, in writing and under
oath, within thirty days of the date of service on you.

ANSWERS AND OBJECTIONS OF DEFENDANTS TO
PLAINTIFF'S FIRST INTERROGATORIES TO
DEFENDANT VERA ING (NO. CV04-360P) - 1

I:\Answers to Ross - Vera Ing.DOC1

DEP EXHIBIT
CARMEN PRANTE
NOTARY PUBLIC

4-2505
Perkins Cole LLP
1201 Third Avenue, Suite 4800
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PLAINTIFF'S
EXHIBIT

CASE
NO. CV04-0360P

EXHIBIT
NO. 228

2. If you object to or fail to answer any of these interrogatories, in whole or in part, state your objections or reasons for not responding and state all factual and legal justifications that you believe support your objection or failure to answer.

3. If you deem that any interrogatory calls for privileged information, and such privilege is asserted to avoid providing such information, provide a description of the information withheld and the privilege relied upon in sufficient detail to provide a basis for ruling on a motion to compel.

4. If you object to answering only part of an interrogatory, specify the part to which you object and answer the remainder.

5. Please seasonably and promptly supplement your answers to these interrogatories as this action continues, to the full extent required by Federal Rule of Civil Procedure 26(e).

6. If you contend that the number of interrogatories exceeds the limits of the rules, you should timely respond to so many of the interrogatories, in order, as does not exceed the limits.

DEFINITIONS

As used in these interrogatories, the following terms have the meanings described below:

1. The singular includes the plural and vice versa. The past tense includes the present tense where the clear meaning is not distorted by change of tense.

2. "Person" means any natural person, marital community, partnership, corporation, joint venture, business entity or government entity.

3. "You," "your" or any similar word or phrase includes you, the WSLCB, and any employees or representatives authorized to act on behalf of the WSLCB.

4. "Identify," when used with respect to a person, means to state with respect to each such person:

- a. Name;
- b. Last-known residential address:

1 c. Occupation, employer, and business address at the date of the event or
2 transaction to which the discovery requests refer; and
3

4
5 d. Present occupation, employer, and business address (if different than c).
6

7 5. "Identify," when used with respect to a fact or event, means to:
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9 a. Describe the fact or event with reasonable particularity;
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11 b. Identify each person believed to have knowledge with respect to the fact
12 or event; and
13

14 c. Identify each document that refers or relates to the fact or event.
15

16 6. "Identify," when used with respect to a document, means to describe the
17 document with sufficient particularity so as to provide the basis for a motion to compel
18 production pursuant to Federal Rule of Civil Procedure 37. In lieu of identifying a document in
19 this manner, it will be sufficient to produce copies of the document.
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22 7. "Identify," when used with respect to a policy or practice, means to describe the
23 policy or practice with reasonable particularity and identify where the policy or practice is stated
24 or reflected in official state records.
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27 8. "Document" means any kind of handwritten, typewritten, printed, or recorded
28 material whatsoever, including, without limitation, all drafts, copies, data compilations in
29 computer-readable form, all foreign language documents, and all translations of foreign language
30 documents.
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33 9. "State" means the State of Washington, its Legislature, the WSLCB, and any
34 other state agencies, boards, or departments.
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37 10. "WSLCB" means the Washington State Liquor Control Board.
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40 11. The "prohibitions and requirements" or "prohibition or requirement" include the
41 following:
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43 a. prohibiting licensed retailers from purchasing directly from out-of-state
44 suppliers;
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This section is enacted, pursuant to the authority of this state under the twenty-first amendment to the United States Constitution, to promote the public's interest in fostering the orderly and responsible distribution of malt beverages and wine towards effective control of consumption; to promote the fair and efficient three-tier system of distribution of such beverages; and to confirm existing board rules as the clear expression of state policy to regulate the manner of selling and pricing of wine and malt beverages by licensed suppliers and distributors.

Furthermore, LCB strives to exercise the authority issued by the people of the State of Washington through the Legislature as stated in RCW 66.08.010 to "protect the welfare, health, peace, morals, and safety of the people of the State and all its provisions shall be liberally construed for the accomplishment of that purpose." These policies are also reflected in various regulations adopted by LCB. "Responsible distribution," a "fair and efficient three tier system" and "effective control of consumption" are intended to discourage excessive promotion of beer and wine and excessive or abusive consumption of wine and beer by individuals. Without limitation, examples of regulations which may have the effect of reducing consumption of wine or beer include:

- Amendment to Regulation (49), Beer Price posting, effective September 19, 1957, "No price shall be posted which is below "cost" or below "cost of doing business" or as "loss leader," as defined in Rule 124(e). Attached document no. LCB 01001051-01001055.
- WAC 314-52-005(1) "The purpose of this title is to provide reasonable regulation as to the kind, character and location of advertising of liquor. . ."
- WAC 314-11-085 Retail liquor licensees must sell beer, wine and spirits to customers at or above the licensees' acquisition cost.

INTERROGATORY NO. 2: Identify where, if at all, the State adopted a policy to increase the lawful consumption of wine or beer produced in Washington.

ANSWER: See the General Objections, which are incorporated in this answer as fully set forth. LCB objects to the term "increase the lawful consumption of wine or beer" as not reasonably calculated to lead to the discovery of admissible evidence, not relevant to the subject matter and argumentative. Without waiving such objections, LCB answers as follows: It does not adopt a policy to increase the consumption, but to respond to non-stimulated lawful demand of alcoholic beverages:

- See LCB Strategic Plan 2005-2007, pages 2, 4 and 13 of plan. Copy attached document number LCB 01001056-01001059;
- See LCB Wine Program Strategy 2004-2009. Copy attached document number LCB 01001073-01001091.
- WAC 314-12-020 applicants may be required to justify granting of a license based on population trends compared to existing licensees in the area.
- LCB's "Retail Services Business Plan". (To be produced with the document production request)

1 Furthermore, LCB is aware that the Legislature created the Washington Wine
2 Commission, Chapter 15.88 RCW. The creation of the Washington Wine Commission
3 reflects a policy decision by the State to assist in the development of the production of
4 Washington wine grapes and enhance the marketing of Washington wines for sale in the
5 state and export to other states and therefore may by implication increase the lawful
6 consumption of wine produced in Washington. The stated goals of the statute are to
7 increase exports from the state, create jobs in the state, and provide stability to agriculture
8 in the state and most importantly market Washington wines. However, the statute is silent
9 as to whether any increased consumption should result from people substituting
10 Washington wines for wines produced elsewhere or from people buying Washington wine
11 in addition to the wine they buy that is produced elsewhere.
12

13 **INTERROGATORY NO. 3:** Identify where, if at all, the State adopted a policy to
14 increase prices of wine or beer in an effort to reduce consumption or for any other reason.
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17 **ANSWER:** See the General Objections, which are incorporated in this answer as
18 fully set forth. Without waiving its objection, LCB answers as follows: LCB has adopted
19 policies in statutes and regulations and otherwise for orderly marketing, promotion of the
20 three-tier system, and control of the importation, distribution, selling and pricing of wine
21 and malt beverages and taxation of those products. Plaintiff alleges, and the LCB agrees,
22 that those policies and the statutes and regulations implementing them have the effect of
23 raising prices for wine and beer. LCB does not believe that the purpose of the statutes and
24 regulations is to reduce lawful consumption of wine and beer, except to the extent that
25 excessive or abusive consumption is also lawful consumption. Except for such
26 implementing statutes and regulations, LCB is not aware of any policies intended to
27 increase the prices of wine or beer in an effort to reduce consumption.
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29 **INTERROGATORY NO. 4:** Identify each action the State has taken to either reduce or
30 increase the lawful consumption of wine or beer.
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32 **ANSWER:** See the General Objections, which are incorporated in this answer as
33 fully set forth. LCB further objects to this interrogatory as overly broad request and as
34 unduly burdensome. Without waiving its objection, the LCB answers as follows: LCB is
35 not aware of any action taken with the purpose of increasing the lawful consumption of
36 wine or beer. The LCB has taken regulatory action, by way of its Alcohol Impact Area
37 regulation [WAC 314-12-215], to permit, under appropriate conditions, local governmental
38 bodies to restrict or prohibit the sale of certain beer or wine products within their
39 jurisdictions to reduce abusive consumption of wine and beer. All of the statutes and
40 regulations governing the distribution and sale of wine and beer are intended to further the
41 policies referred in the answer to Interrogatory number 1 above. Regulatory actions
42 including policy decisions as referred to in the answers to interrogatories above taken by
43 LCB to implement or enforce the statutes and regulations, and which may have had the
44 effect of reducing the lawful consumption of wine and beer, include without limitation:
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- 46 • See "Evaluation of the Tacoma, Washington, Alcohol Impact Area (AIA)," in
47 Defendants' Initial Disclosures, LCB 01000929 to 01001045 and WAC 314-
48 12-215 Alcohol Impact Areas-Definition--Guidelines.
- 49 • LCB consideration and action to adopt "no sales below cost of
50 acquisition/production plus 10%:" Board Minutes of August 14, 1985,
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1 August 28, 1985, January 15, 1986, July 1, 1986 and August 5, 1986. Copies
2 attached document numbers LCB 01001060- 01001070.
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- 5 • Amendment to Regulation (49), Beer Price Posting, effective September 19,
6 1957: "No price shall be posted which is below "cost" or below "cost of doing
7 business" or a "loss leader," as defined in Rule 124(e). Attached document
8 no. LCB 01001051-01001055.
9
 - 10 • LCB approved the Retail Pricing Implementation on December 8, 2004 to
11 raise the prices of the top 100 selling wine products sold in LCB stores. This
12 will raise the prices to the average market price. Copy attached document
13 no. LCB 01001071-01001072. (See "Subject: Wine Strategy 7—Retail Pricing
14 Recommendation.")

15 **INTERROGATORY NO. 5:** Identify what state policy, if any, is furthered by the
16 "orderly" distribution of wine and beer.
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19 **ANSWER:** See the General Objections, which are incorporated in this answer as
20 fully set forth. See generally the answers to Interrogatories 1, 2, and 3 above. Additionally,
21 "orderly" distribution of wine and beer furthers the state policy as expressly articulated in
22 the statutory provisions to protect the welfare, health, peace, morals, and safety of the
23 people of the State of Washington as encompassed through Title 66 Wash. Rev. Code
24 (RCW) and the authority to promulgate such rules as necessary to carry out such
25 responsibility as found in Wash. Admin. Rules (WAC). Further, the 21st amendment
26 granted to all states the power to regulate the importation, distribution and sale of alcohol
27 within their respective borders without the limitations ordinarily imposed on state action
28 by the Commerce Clause. To those ends, the system adopted and approved by the
29 Washington State Legislature fulfills its mandate to protect the welfare, health, peace,
30 morals and safety of the people of the State of Washington through such policy
31 considerations, including but not limited to: (a) control of alcoholic products such as beer
32 and wine subject to abuse; (b) control of the distribution and marketing of beer and wine;
33 (c) absolute prohibition of the purchase or consumption of beer or wine by minors; (d)
34 discouraging pricing of beer and wine at low levels; (e) discouraging illegal marketing of
35 beer and wine and (f) assuring collection by the state of all taxes lawfully levied against
36 beer and wine.
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38 **INTERROGATORY NO. 6:** Identify how "orderly" distribution differs from
39 distribution governed by normal competitive marketplace factors with respect to each state
40 policy identified in response to Interrogatory No. 5.
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43 **ANSWER:** See the General Objections, which are incorporated in this answer as
44 fully set forth. LCB also object to this Interrogatory on the grounds that it is vague and
45 ambiguous, because it is not clear that "normal competitive marketplace factors" has any
46 standard meaning and it is impossible to determine what plaintiff may mean by "normal
47 competitive marketplace factors." Subject to and without waiving its objections, LCB
48 answers as follows: All markets for wine and beer in the United States are controlled by
49 federal, state and some local governments. Therefore there is no reason to believe that any
50 market for wine and beer in the United States can be described as subject to "normal
51

1 competitive marketplace factors." Alternatively, there is no reason to believe that the
2 system of "orderly distribution" established in Washington does not reflect "normal
3 competitive marketplace factors" affecting the distribution and sale of wine and beer.
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5 INTERROGATORY NO. 7: Identify each of the "clearly articulated state policies" that
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7 you contend in the Sixth Affirmative Defense that the State seeks to serve through the
8
9 prohibitions and requirements.
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11 ANSWER: See the General Objections, which are incorporated in this answer as
12 fully set forth. See the provisions of the statutes setting forth the prohibitions and
13 requirements. See also the answers to Interrogatories No. 1, 2, 3, 4, and 5.
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15 INTERROGATORY NO. 8: Identify each specific state policy that you contend in the
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17 Seventh Affirmative Defense is served by the State's exercise of its 21st Amendment authority.
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19 ANSWER: See the General Objections, which are incorporated in this answer as
20 fully set forth. Without waiving its objection, LCB answers as follows: Each state policy,
21 as expressed in the statutes and regulations governing LCB's authority regarding alcohol
22 and specifically setting forth the prohibitions and requirements is an exercise of the state's
23 police power (as reflected in RCW 66.08.010) which is part of the state's system to regulate
24 the sale, transportation, distribution or importation of wine, beer or alcohol into
25 Washington State. The 21st Amendment preserves the state's exercise of such power. See
26 also the answers to Interrogatories No. 1, 2, 3, 4, and 5.
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28 INTERROGATORY NO. 9: Identify as to each prohibition or requirement why you
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30 contend it is necessary to the accomplishment of each state policy you contend justifies the
31
32 prohibition or requirement.
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34 ANSWER: See the General Objections, which are incorporated in this answer as
35 fully set forth. LCB objects to the question in its form of "[W]hy you contend it is
36 necessary to the accomplishment of each state policy you contend justifies the prohibition
37 or requirement" as argumentative. Without waiving its objection, LCB answers as follows:
38 LCB does not contend that any specific provision in the prohibition or requirements is
39 "necessary" to the accomplishment of State policies. LCB contends that the regulatory
40 system adopted by the State is a reasonable, and reasonably effective means of
41 implementing the policies discussed in the answers to Interrogatories No. 1, 2, 3, 4, and 5.
42 LCB strives to exercise the authority issued by the people of the State of Washington
43 through the Legislature to protect the welfare, health, peace, morals, and safety of the
44 people of the State of Washington as encompassed through Title 66 Wash. Rev. Code
45 (RCW) and the authority to promulgate such rules as necessary to carry out such
46 responsibility as found in Wash. Admin. Rules (WAC). The reasons for LCB's belief that
47 the system is reasonable and reasonably effective include, without limitation, the following:
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49 1. Price Posting: Supports the state's goal of preventing over consumption by
50 allowing enforcement staff to identify and correct distributors that are selling below the
51 required "cost of acquisition plus 10%." The "hold" keeps prices stable for 30 days to

ANSWERS AND OBJECTIONS OF DEFENDANTS TO
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1 make the "one price for all retailers" rule effective and enforceable and to facilitate
2 calculation and collection of taxes. This further supports the orderly distribution of beer
3 and wine by preventing retailers engaging in "price wars" and using alcohol products as
4 lures or loss leaders to consumers resulting in increased promotion of consumption.
5

6 2. No Sales below cost of acquisition/production plus 10%: This supports the
7 orderly distribution of beer and wine by preventing retailers engaging in "price wars" and
8 using alcohol products as lures or loss leaders to consumers resulting in increased
9 promotion of consumption.
10

11 3. One price for all retailers: This supports the orderly distribution of beer and
12 wine by preventing retailers engaging in "price wars" and using alcohol products as lures
13 or loss leaders to consumers resulting in over promotion of consumption. This also has the
14 effect of assuring that a wider array of retail outlets is available to consumers throughout
15 the State and has the effect of stabilizing competition.
16

17 4. Cash payment at retail delivery: This keeps the retailer from being in a debtor
18 relationship with wholesalers. This removes the wholesaler's use of such a relationship as
19 leverage to gain an exclusive supplier role, helps keep retailers independent from
20 manufacturers and wholesalers and supports the orderly distribution of beer and wine.
21

22 5. No quantity discounts: This supports the orderly distribution of beer and wine
23 by making the "one price for all retailers rule", to be effective and enforceable and
24 promotes the state's policy to prevent over consumption by keeping prices above the level
25 where they would promote over consumption. This also has the effect of assuring that a
26 wider array of retail outlets is available to consumers throughout the State and has the
27 effect of stabilizing competition.
28

29 6. Direct delivery: This supports the orderly distribution of beer and wine and
30 further aids "one price for all retailers" in insuring that a distributor's prices to retail
31 licensees shall be the same at both the retailer's licensed premises and the distributor's
32 licensed premises.
33

34 INTERROGATORY NO. 10: Identify how it is consistent with each policy identified
35 in response to any interrogatory above that the State may buy wine and beer at prices lower than
36 other Washington retailers, be extended credit before payment is due, warehouse beer and wine,
37 not be required to buy through distributors, and buy beer and wine directly from out-of-state
38 suppliers while all other retailers of beer and wine in Washington are prohibited from doing the
39 same.
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1 ANSWER: See the General Objections, which are incorporated in this answer as
2 fully set forth. LCB further objects to the interrogatory as not reasonably calculated to
3 lead to the discovery of admissible evidence, not relevant nor material to this litigation and
4 argumentative. Without waiving its objection, LCB answers as follows: The policies
5 underlying the State's system for regulating the distribution and sale of wine and beer by
6 the private sector, discussed in the answers to Interrogatories No. 1, 2, 3, 4, and 5, above,
7 do not come into play with respect to, and have no bearing on activity by the State. The
8 State is not concerned about its own activities in the same manner it is concerned with the
9 activities of the private sector and the State need not regulate its own activities in the same
10 manner it regulates the activities of the private sector. Therefore, there is no inconsistency
11 whatsoever between the regulatory system governing the private sector and the activities of
12 the State in the operation of its retail stores.

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14 INTERROGATORY NO. 11: Identify why it is necessary to the accomplishment of
15 each policy identified in response to any interrogatory above for the State to prohibit retailers
16 from purchasing directly from approved out-of-state wineries and brewers but not necessary to
17 prohibit them from purchasing directly from in-state wineries and brewers and not necessary to
18 prohibit consumers from purchasing directly from out-of-state wineries.

19
20 ANSWER: See the General Objections, which are incorporated in this answer as
21 fully set forth. Without waiving its objection, LCB answers as follows: LCB does not
22 contend that any specific provision of the regulatory system including but not limited to the
23 prohibitions and requirements is "necessary" to the accomplishment of State policies.
24 LCB contends that the regulatory system adopted by the State is a reasonable, and
25 reasonably effective means of implementing the policies discussed in the answers to
26 Interrogatories No. 1, 2, 3, 4, and 5. Such contentions include, without limitation, the
27 following: Washington state wineries and breweries are under regular, direct, face-to-face
28 supervision, and enforcement by agents of the LCB. As to sales of their own product, in-
29 state breweries and wineries pay the excise tax to the state and, by virtue of their physical
30 presence in Washington; they are subject to efficient and effective control and enforcement
31 of the tax requirements. Due to distance and cost considerations, this level of oversight
32 cannot be maintained for out-of-state wineries and breweries. In-state wineries and
33 breweries which choose to distribute their own products directly to in-state retailers also
34 assume all of the many responsibilities of distributors. Further, since 1991, Washington
35 wineries have been able to ship small amounts of wine to consumers in other states with a
36 reciprocal agreement. In return, wineries in the other states may ship to Washington
37 consumers. Consumer purchases from out of state wineries differ in quantities from retail
38 licensees. The amount of wine a Washington consumer may purchase directly from out-of-
39 state wineries is restricted to no more than two cases per year, compared to the more than
40 8 million cases sold at retail in 2003.

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42 INTERROGATORY NO. 12: Identify, as to each state policy identified in response to
43 any interrogatory above, each effort that the State has undertaken to determine, and all
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ANSWERS AND OBJECTIONS OF DEFENDANTS TO
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1 information considered at any time by the State that bears on, the degree to which each
2
3 prohibition or requirement furthers that policy.
4

5 **ANSWER:** See the General Objections, which are incorporated in this answer as
6 fully set forth. LCB further objects to the interrogatory as vague, ambiguous, confusing
7 and overly broad. To the extent the question attempts to inquire as to the LCB's support
8 of the policies underlying the prohibition or requirements as defined in these
9 interrogatories, see answers to the Interrogatories No. 1 through 11. Subject to its
10 objection and without waiving such objection, LCB answers as follows: LCB is not aware
11 that the State has tried to establish a quantitative measurement reflecting the degree to
12 which regulatory provisions governing the distribution and sale of wine and beer further
13 state policies.
14

15 **INTERROGATORY NO. 13:** Identify, as to each state policy identified in response to
16 any interrogatory above, each effort that the State has undertaken to determine whether any state
17 actions or policies, other than the prohibitions and requirements, have either furthered or
18
19 hampered accomplishment of the policy.
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23 **ANSWER:** See the General Objections, which are incorporated in this answer as
24 fully set forth. LCB further objects to this interrogatory as overly broad and unduly
25 burdensome. Without waiving its objection, LCB answers as follows: LCB is not aware
26 that the State has tried to determine whether any state actions or policies has furthered or
27 hampered state policies, except to the extent the State's periodic review of the laws
28 governing distribution and sale of wine and beer themselves may have included such an
29 effort. Nevertheless, in protecting Washington citizens from over consumption of alcohol,
30 LCB in cooperation with municipal governments and local communities adopted WAC
31 314-12-210 through WAC 314-12-225 to alleviate the problems associated with chronic
32 public inebriation. These rules seek to reduce chronic public inebriation by removing
33 certain high alcohol, low price products from retail sale in the Alcohol Impact Area. These
34 rules also called for a study of the effectiveness of the first Alcohol Impact Area, which
35 went into effect in Tacoma in March 2002. The study was presented to LCB in June 2003
36 and indicated that the Alcohol Impact Area designation and actions had been effective in
37 reducing public inebriation. (See Defendant's Initial Disclosures LCB 01000896-
38 01001045).
39

40 **INTERROGATORY NO. 14:** Identify all reviews or amendments that the Sixth
41
42 Affirmative Defense contends the State has undertaken.
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44 **ANSWER:** See the General Objections, which are incorporated in this answer as
45 fully set forth. LCB further objects to this interrogatory for identification of "all reviews
46 or amendments the state has undertaken" as overly broad. Without waiving its objection,
47 LCB answers as follows: Since the establishment of the Washington State Liquor Act in
48 1933 and the initial Rules and Regulations in 1934, the legislature and the LCB have
49 reviewed and amended many sections of the laws and the rules. The Act is now codified as
50 RCW chapter 66, and the Rules and Regulations have become WAC chapter 314. Each
51 section of the RCW and WAC contains the Legislative and rule making history of the

1 section which demonstrates the review the State has taken regarding its laws relating to the
2 sale and distribution of alcohol in Washington State. Furthermore, through feedback
3 from licensees, stakeholders and the general public, LCB continuously considers the
4 effectiveness of all of the laws and rules under which the LCB operates. See also the
5 answers to Interrogatories No. 12 and 13.
6

7 **INTERROGATORY NO. 15:** Identify each study or other form of information or
8 analysis considered at any time by the State that relates to whether any of the prohibitions and
9 requirements operates to reduce consumption of alcohol.
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11 **ANSWER:** See answer to Interrogatories No. 1-7 and No. 12.
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13 **INTERROGATORY NO. 16:** Identify each study or other form of information in the
14 possession of the State or at any time considered by the State as to the impact on competition
15 or consumers of one or more of the prohibitions and requirements.
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17 **ANSWER:** See the General Objections, which are incorporated in this answer as
18 fully set forth. LCB further objects to this interrogatory as overly broad. Without waiving
19 its objection, LCB answers as follows:
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- 21 • The 1983 Office of Financial Management study, "The Desirability of
22 Continuing Retail Liquor Sales by State Government", includes observations
23 on the effect of pricing on consumption levels, and resulting negative effects
24 on public health, safety and crime. (See Defendants Initial Disclosure pp.
25 LCB 01000090-01000098).
- 26 • The 1999 Three-Tier System Review Panel Materials. (See Defendant's
27 Initial Disclosures, pp. LCB 01000171-01000488).
- 28 • In 2000, the Governor's Task Force on Retail Sale of Alcohol was charged to
29 "examine the operations and performance of the LCB's product and retail
30 sales division, based upon generally accepted business practices and similar
31 operations in other states." The task force was also charged to "evaluate the
32 appropriateness of the state's monopoly over liquor sales and alternatives to
33 the current system, including but not limited to, privatization options." (See
34 Defendant's Initial Disclosures, pp. LCB 01000489-01000875)
- 35 • See also the answers to Interrogatories No. 12, 13 and 14.
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40 **INTERROGATORY NO. 17:** Identify all regulatory efforts undertaken by the State
41 to supervise, control, or limit the impact on competition or consumers of any of the
42 prohibitions and requirements.
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44 **ANSWER:** See the General Objections, which are incorporated in this answer as
45 fully set forth. LCB further objects to this interrogatory as vague and confusing as to the
46 term "limit the impact on consumers of any of the prohibitions and requirements" and as
47 overly broad. Without waiving its objection, LCB answers as follows: The system
48 governing the distribution and sale of wine and beer in Washington is intended to regulate
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1 and therefore impact competition in order to further the policies and goals referred to in
2 the Answers to Interrogatories 1,2,3,4 and 5. Consequently, the system also has impacts on
3 consumers. So far as LCB is aware, the State has not made any effort to "control or limit"
4 the impacts on competition and consumers of its regulatory system, except to the extent
5 that, from time to time, statutes relating to the "prohibitions and requirements" have been
6 modified by the legislature. As to "supervision," LCB continually strives to exercise the
7 authority issued by the people of the State of Washington through the Legislature to
8 protect the welfare, health, peace, morals, and safety of the people of the State of
9 Washington as encompassed through Title 66 Wash. Rev. Code (RCW) and the authority
10 to promulgate such rules as necessary to carry out such responsibility found in Wash.
11 Admin. Rules (WAC). Without limitation, examples include establishing the online price
12 posting system to reduce the time and effort needed for suppliers and distributors to post
13 their prices assists supporting the orderly distribution of beer and wine by preventing
14 retailers engaging in "price wars" and using alcohol products as lures or loss leaders to
15 consumers resulting in over consumption.
16

17 **INTERROGATORY NO. 18:** Identify each analysis undertaken by the State or any
18 information at any time considered by the State as to conduct by the Intervenor Defendant or
19 one or more of its members that potentially harmed competition or consumers.
20
21
22

23 **ANSWER:** See the General Objections, which are incorporated in this answer as
24 fully set forth. LCB further objects to this interrogatory as overly broad and unduly
25 burdensome. Without waiving its objection, LCB answers as follows: Since 1934, LCB has
26 served as the regulator of all beer and wine wholesalers. LCB does not note whether a
27 wholesaler is a member of the WBWWA. In the intervening 70 years the LCB has had
28 thousands of occasions to consider information regarding wholesalers that may have had
29 an effect on consumers. These include bulletins and letters from Board staff to wholesalers
30 clarifying, emphasizing and enforcing statute and rules. (See "Manufacturers, Importers
31 and Wholesalers (MIW) Bulletins and Letters, 1935-2004, to be produced with the
32 production document request). Further, LCB's Manufacturer, Importer and Wholesaler
33 Enforcement Officers regularly visit wholesalers and also investigate specific instances of
34 alleged violation of LCB law and rules. Enforcement officers will not hesitate to issue an
35 Administrative Violation Notice on first violation, if warranted. In most cases verbal
36 warnings are issued, and if compliance is not forthcoming, a written warning is sent. If the
37 wholesaler continues in violation, an Administrative Violation Notice is issued. (Examples
38 of the Report of complaint and Administrative Violation Notices will be produced with the
39 production document request).
40

41 LCB understands that a Consent Decree was entered against certain distributors in 1984,
42 barring those distributors from fixing prices, allocating territories or allocating customers.
43 LCB does not know whether all or any of the persons against whom the decree was entered
44 were or are members of the WBWWA.
45

46 **INTERROGATORY NO. 19:** Identify each potential new or amended statute or
47 regulation that is presently being informally or formally considered by you or any employee of
48 WSLCB.
49
50
51

1 **ANSWER:** See the General Objections, which are incorporated in this answer as
2 fully set forth. LCB further objects to this interrogatory as not reasonably calculated to
3 lead to the discovery of admissible evidence and such request is overly broad and unduly
4 burdensome.

5
6 **INTERROGATORY NO. 20:** Identify each analysis undertaken by the State as to
7 desirability or methods of increasing sales of wine or beer in Washington.
8
9

10 **ANSWER:** See the General Objections, which are incorporated in this answer as
11 fully set forth. Without waiving its objection, LCB answers as follows: LCB has engaged
12 in some analysis and created some business plans pertaining to sales of wine and spirits in
13 the State's retail stores. Those include, without limitation, the following:
14

15 See LCB's "Retail Services Business Plan" to be produced with the request for document
16 production.
17

18 See also answers to Interrogatories numbers 2 and 4.
19

20 Except for the above-referenced business plans and analyses, LCB is not aware of any
21 analysis as to the desirability of or methods for increasing sales of wine and beer in
22 Washington undertaken by the State.
23

24 **INTERROGATORY NO. 21:** Identify each person not acting as your counsel who
25 answered, supplied information for answers, or otherwise assisted in preparing answers to these
26 interrogatories.
27
28
29

30 **ANSWER:** Rick Garza, Director, Policy and Legislative and Media Division
31 Lorraine Lee, Director, Licensing and Regulations Division
32 Randy Reynolds, Manager of Non-Retail Programs and Interim
33 Director of Licensing and Regulations Division.
34 Heidi Ensign, Non-Retail Compliance Supervisor
35 Heidi Whisman, Acting Deputy Director, Purchasing
36 John House, Litigation Coordinator
37 B. Kathy Wilson, Litigation Specialist
38 Manufacturer, Importer and Wholesaler Enforcement Officers:
39 Richard Manoli, 4401 E. Marginal Way S., Seattle, WA 98134-9947
40 Ray Cerrillo, 100 9th St., Wenatchee, WA 98801-1505
41 Steve Hypse, 4401 E. Marginal Way S., Seattle, WA 98134-9947
42 Russ McCabe, 1303 W. Broadway, Spokane, WA 99201-2053
43 Jeanne Reschan, 3000 Pacific Avenue, Olympia, WA 98504
44

45 With the exception of the Manufacturer, Importer and Wholesaler Enforcement
46 Officers for whom the business address is provided above, the address for all of the above
47 is: Washington State Liquor Control Board, 3000 Pacific Avenue, Olympia, WA 98504.
48
49
50
51

1 DATED: December 17, 2004.
2
3

4 PERKINS COIE LLP
5

6
7 By: _____
8 David J. Burman, WSBA #10611
9 Shylah R. Alfonso, WSBA #33138
10 1201 Third Avenue, Suite 4800
11 Seattle, WA 98101-3099
12 Telephone: 206-359-8000
13 Fax: 206-359-9000
14 dburman@perkinscoie.com
15 salfonso@perkinscoie.com
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ANSWERS AND OBJECTIONS OF DEFENDANTS TO
PLAINTIFF'S FIRST INTERROGATORIES TO
DEFENDANT VERA ING (NO. CV04-360P) - 15

I:\Answers to Ross - Vera Ing.DOC1

Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, Washington 98101-3099
Phone: (206) 359-8000

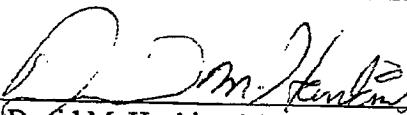
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RULE 26(g) CERTIFICATION

I have read the foregoing answers and objections to these interrogatories and certify that, to the best of my knowledge, information and belief, formed after a reasonable inquiry, they comply with the requirements of Federal Rule of Civil Procedure 26(g).

Dated this 17th day of December, 2004.

ASSISTANT ATTORNEY GENERAL

By 
David M. Hankins, WSBA #19194
Attorneys for Defendants Roger Hoen, Vera Ing,
and Merritt Long

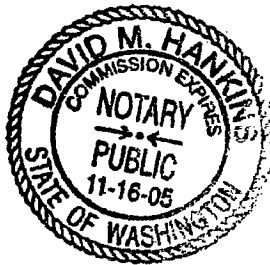
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STATE OF WASHINGTON)
COUNTY OF THURSTON) ss:

I have been delegated the authority to review and sign on behalf of the officials of the Liquor Control Board and, pursuant to CR 33, I certify that I have read the foregoing answers to these interrogatories and believe them to be true and correct.

R. S. R

SUBSCRIBED AND SWORN to before me this 17 day of DECEMBER 20 04



(Signature of Notary)

(Print or stamp name of Notary)

NOTARY PUBLIC in and for the State
of Washington, residing at Olympia
My Appointment Expires: 11-16-05

ANSWERS AND OBJECTIONS OF DEFENDANTS TO
PLAINTIFF'S FIRST INTERROGATORIES TO
DEFENDANT MERRITT LONG (NO. CV04-360P) - 16

Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, Washington 98101-3099
Phone: (206) 359-8000
Fax: (206) 359-8800

WASHINGTON STATE LIQUOR CONTROL BOARD

Olympia

The following Regulation amendatory to Regulation (49), Beer Price Posting--Filing Contracts--Bills of Lading, being a portion of TITLE III.--BREWERS, BEER WHOLESALERS, BEER IMPORTERS AND HOLDERS OF CERTIFICATE OF APPROVAL, was adopted by the Washington State Liquor Control Board this 18th day of September, 1957, to become effective at 12:01 a.m., September 19, 1957:

(49) Beer Price Posting--Filing Contracts--Bills of Lading

(a) Price Posting. Within the meaning of this regulation, the term "zone" shall mean such "zones" adopted by the board, effective April 11, 1955, and as thereafter or hereafter amended, as trade areas within and for which price postings shall be made and filed as in this regulation provided.

Every licensed brewer and every beer importer shall file with the board at its office in Olympia price postings showing the wholesale prices at which any and all brands of beer manufactured by such brewer or imported by such beer importer shall be sold in each and every zone, which prices shall be uniform for all retail licensees in any particular zone. Prices posted shall be basically uniform in all zones on a statewide basis. Departures from uniform prices permitted by this regulation must be limited to additional cost of transportation or distribution. Prices posted for zones 2W and 3W shall not be lower than those posted for zone 1W. Prices posted for zones 2E and 3E shall not be lower than those posted for zone 1E. Prices posted for zone 1E shall not be lower than those posted for 1W. All price postings shall be consistent as between the various packages and containers offered for sale. Each price posting shall be made on a form prepared and furnished by the board and shall set forth:

(1) All brands, types, packages and containers of beer offered for sale by such brewer or beer importer.

(2) The delivered sale prices thereof to retail licensees within each and every zone, including allowances, if any, for returned empty containers.

No beer wholesaler shall sell or offer to sell any package or container of beer to any retail licensee at a price differing from the price for such package or container as

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shown in the price posting filed by the brewer manufacturing such beer or by the beer importer importing such beer and then in effect.

No price postings involving quantity discounts shall be made. No price shall be posted which is below "cost" or below "cost of doing business" or a "loss leader" as those terms are defined in Regulation (124)(a).

No price posting shall become effective until ten days after the actual filing thereof with the Board. In the event a price posting is filed before a previous one has become effective, the subsequent filing shall nullify said previous price posting. The board may reject any price posting which it deems to be in violation of this or any other regulation or which would tend to disrupt the orderly sale and distribution of beer. Whenever the board shall reject any posting the licensee submitting said posting may be heard by the board and shall have the burden of showing that said posting is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of beer. Thereupon if said posting is accepted it shall become effective at a time fixed by the board. If said posting is rejected, the last effective posting shall remain in effect.

(b) Filing Contracts. Every licensed brewer shall file with the Board at its office in Olympia a copy of every written contract and a memorandum of every oral agreement which such brewer may have with any beer wholesaler handling beer manufactured by such licensed brewer, which contracts or memoranda shall contain all terms of sale, including all regular and special discounts; all advertising, sales and trade allowances; all commissions, bonuses or gifts and any and all other discounts or allowances. Whenever changed or modified the changed or modified contracts or memoranda shall forthwith be filed with the board.

Every holder of a certificate of approval shall file with the board at its office in Olympia a copy of every written contract and memorandum of every oral agreement which such certificate of approval holder may have with any importer whose beer such importer imports; the contracts or memoranda shall contain all terms of sale including all regular and special discounts; all advertising, sales and trade allowances; all commissions, bonuses or gifts and any and all other discount allowances. Whenever changed or modified, the changed or modified contracts or memoranda shall be forthwith filed with the board.

Every beer importer who sells any beer to another beer importer or to a beer wholesaler shall file with the board at its office in Olympia a copy of every written contract or memorandum of every oral agreement which such importer may have with such other beer importer or wholesaler whose beer such importer imports; which contracts or memoranda shall contain all terms of sale including all regular and special discounts; all advertising, sales and trade allowances; all commissions, bonuses or gifts and any and all other discount allowances. Whenever changed or modified, the changed or modified contracts or memoranda shall forthwith be filed with the board.

No licensed brewer shall sell beer manufactured by such brewer to any person whatsoever until copies of such written contracts or memoranda of such oral agreements with such wholesaler are on file with the board.

No beer importer shall sell any beer imported by such importer to any person whatsoever until copies of such written contracts or memoranda of such oral agreements with the out-of-state brewer manufacturing such beer are on file with the board; nor shall any beer importer sell any beer imported by such importer to any beer wholesaler until copies of such written contracts or memoranda of such oral agreements with such beer wholesaler are on file with the board.

(c) Holders of certificates of approval may ship beer into this state when the same has been sold and consigned to the holder of an importer's license at his licensed premises. The bill of lading covering such consignment shall not be changed or the beer diverted unless such diversion is to another importer and/or beer wholesaler.

(d) All price postings, contracts and memoranda filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not within any sense be considered confidential.

(e) Any provision of this regulation may by order of the board be suspended or modified without notice to meet emergencies.

IT IS ORDERED That copies of the foregoing Regulation (49) be filed in the
office of the Secretary of State.

WASHINGTON STATE LIQUOR CONTROL BOARD

Don G. Abel
Don G. Abel, Chairman

Fred C. Koch
Fred C. Koch, Member

C. W. Bryant
C. W. Bryant, Member

ATTEST:

Carmen Phillips
Secretary

Approved as to Form:

Arthur Mickey
Arthur Mickey
Assistant Attorney General

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Rules and Regulations

pencils, coasters, menu cards, meal checks, napkins, foam scrapers, clocks, calendars, or similar articles.

(124) Advertising Jointly by Retailer and Wholesaler or Manufacturer, Prohibited—Advertising by Class E and F Licensees

The name of a retail licensee shall not appear in, or as a part of, or supplementary to, any advertising of a manufacturer or wholesaler, nor shall the name of a manufacturer or wholesaler or brand name of liquor appear in or as a part of or supplementary to, the advertising of any retail licensee: Provided, That Class E and F licensees may advertise various brands of beer and wine in newspapers and periodicals under the following conditions:

(a) That two or more brands each of beer or wine are listed in any advertisement offering specific brands for sale.

(b) That no brand is given prominence in the advertisement over any other brand mentioned in that advertisement.

(c) That liquor advertising is supplementary to the main theme of the advertisement and is not given undue prominence, but is confined to type size and copy consistent with the appearance of the remainder of the advertisement.

(d) That such advertising, by appearance or in fact, is not sponsored by a retailer and a manufacturer or wholesaler. (See Guide to Advertising, (1)-(w).)

(e) That beer or wine shall not be advertised, offered for sale or sold at less than cost or as a loss leader. For the purpose of this subsection, the following definitions apply:

"Cost" has its usual meaning and, in addition as applied to production, includes the cost of raw materials, labor and all overhead expenses of the producer, and as applied to distribution, means the invoice cost or replacement cost, whichever is lower, of the commodity to the distributor and for plus the cost of doing business by the distributor and vendor:

"Cost of doing business" or "overhead expense" means all costs of business incurred in the conduct of the business and includes without limitation the following items of expense: Labor (including salaries of employees and officers), rent, depreciation, selling expense, maintenance of plant, delivery expense, credit losses, all types of licenses, taxes, insurance and advertising;

"Loss leader" means any article or product sold at less than cost in order to induce, promote, or encourage the purchase of other merchandise; the sale of which may have the tendency or capacity to mislead prospective purchasers or divert trade from or otherwise injure other merchandise.

Direct Mail Advertising Prohibited—Exceptions

Direct mail advertising shall be sent directly to a consumer, by mail or otherwise, except, however, the words "cocktail," "cocktails," "cocktail lounge" or the room name of the cocktail lounge may be used in the general description of the overall premises, but such words shall not be employed in any manner: Provided, That this prohibition shall not apply to advertising contained in newspapers or periodicals or to material

**Washington State
Liquor Control Board
Strategic Plan 2005-2007**

Vision, Mission, Values, Goals

Vision

Enhancing the quality of life in the State of Washington by effective enforcement of liquor laws while maximizing revenues through responsible alcohol sales.

Mission

The mission of the Liquor Control Board is to serve the public by preventing the misuse of alcohol and tobacco through controlled distribution, enforcement, and education; and provide excellent customer service by operating efficient, convenient and profitable retail stores.

Values

In conducting WSLCB business, we demonstrate:

**Respect for people
Honest and clear communication
Professional conduct
Accountability by honoring our commitments
Involvement and inclusion of stakeholders and employees**

Goals

- (1) Maximize revenues to the citizens of Washington.*
- (2) Enhance public safety by enforcing liquor and tobacco laws.*
- (3) Educate the public about the WSLCB mission and contributions to the community.*
- (4) Recruit, develop, retain and value a high-quality, diverse workforce.*
- (5) Modernize existing business systems and improve service delivery.*

Statutory Authority

The agency's primary statutory authority derives from **RCW 66.08.010**. Within this title are **RCW 66.08.012** (Creation of the 3-member Board); **RCW 66.08.030** (Regulations and Scope); and **RCW 66.08.050** (Powers of the Board). Two other statutes provide authority for enforcement and licensing activities: **RCW 66.44.010** (Liquor Enforcement Officers) and **RCW 66.24.010** (Licensing Provisions). More information on these statutes is listed in the appendix of this report.

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damage, premature death, crime and other social problems. There is a growing societal concern about the negative impact of alcohol abuse, as evidenced by much more stringent DUI laws, growing efforts to regulate alcohol advertising, increasing number of Alcohol Impact Areas, and growing numbers of community interest coalitions.

Balanced Mission

The WSLCB was established to fulfill a *balanced mission*, which under RCW 66.08.010 means the agency exists to meet *un-stimulated demand* for spirituous liquor and to *protect public safety* through licensing, market regulation, enforcement and education. As the state's population continues to increase, the demand for alcohol products will grow. Increased capacity in licensing, enforcement and education also will be needed.

Organization

The WSLCB is composed of a three-member board appointed by the Governor and confirmed by the Washington State Senate. Members serve staggered six-year terms. The board members work 60 percent time establishing agency policy and conducting regular meetings to enact rules and hear citizen and stakeholder concerns. An Administrative Director is in charge of daily operations.

Key WSLCB Divisions

The following divisions are engaged in direct customer service:

Retail

Purchasing (function collaboratively)
Distribution Center

Licensing and Regulation

Enforcement and Education

Four other divisions provide foundational support:

Human Resources

Information Technology Services

Financial

Policy, Legislative and Media Relations

Retail Business Plan

The Retail Business Plan appended to the Strategic Plan illustrates in greater detail how the agency can increase its revenue-generating capacity by adopting best business practices, improving customer service, opening new stores, relocating existing stores and developing better in-store merchandising strategies.

WSLCB's Economic Impact on Washington

Total operational activity measured in dollars is nearly \$600 million annually. In FY 2003, the WSLCB returned \$224 million in revenue to the state. This year the agency will return at least \$245 million. The aggregate annual economic impact of this operational activity on the state economy can be calculated as \$1.5 billion.

State Investment in WSLCB Recognizes Growth Potential

Since 2000, the WSLCB has sought and gained approval from the state for a series of improvements that have strengthened the agency's capacity to meet the challenges of future growth.

- *In 2000, the state approved a new operational model for the agency, by authorizing the appointment of an Administrative Director.*
- *In 2002, the Board reduced its hours to 60 percent, saving more than \$120,000 annually.*
- *In 2002, the agency developed its first Retail Business Plan.*
- *In 2002, a new Distribution Center, 10 years in planning and development, was opened in Seattle and is now operating at a 95 percent fill rate. The DC is nationally recognized for its innovative processes.*
- *In 2002, the agency began a broad review of its policies and risk management processes designed to produce continuous improvement in all aspects of its operations.*
- *In 2003, the Legislature approved the addition of five new stores to meet growing demand caused by growth in the drinking-age population.*
- *In 2004, the Legislature passed a bill giving the agency authority to set fees to recover costs associated with increased demand for licensing services.*

Performance Measures

Many positive performance indicators are evident as the agency moves forward. Sales performance has been especially strong in the first nine months of this fiscal year. As of March 31, 2004, for all classes of products (spirits, wine, cider, beer, alcohol):

- Gross dollar sales are up 9.21 percent compared to 2003.
- Case sales are up 4.84 percent, an increase of 142,518 cases.
- Liter sales are up 3.93 percent, an increase of 1,092,490 liters.

Other performance indicators:

- Fill rates at the Distribution Center are averaging 95 percent or better.
- Tobacco and liquor compliance rates are near 90 percent.
- Stores are meeting their budget goals.
- A simplified licensing procedure has reduced wait time 6 days. More than 30 license requests come in daily.

REVENUE DISTRIBUTION 1994-2003 (in millions)

	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Cities	27.0	25.7	25.5	26.2	30.3	31.0	29.6	33.0	34.0	35.7
Counties	6.8	6.4	6.6	7.2	7.4	7.1	8.2	8.5	8.5	9.0
State	99.9	96.8	95.9	98.5	100.7	101.7	107.9	113.9	117.1	121.6
Border Areas	0.1	0.1	0.1	0.1	0.2	0.2	0.2	0.2	0.2	0.3
DSHS	4.7	5.2	5.4	5.4	5.2	5.3	5.3	5.6	5.8	6.1
SPI	0.2	0.2	0.2	0.1	0.1	0.1	0.2	0.2	0.2	0.2
Drug Enforcement	11.4	9.9	9.7	9.6	10.1	11.8	10.4	10.2	10.7	11.0
Health Care	11.9	11.6	20.3	20.7	29.2	37.6	35.8	35.3	37.6	38.7
Universities	0.7	0.8	0.8	0.9	0.8	0.9	0.7	0.6	0.8	0.8
Rapid Transit	0.1	0.1	0.1	0.1	0.1	0.2	0.2	0.2	0.2	0.3
Wine Commission	0.1	0.1	0.1	0.1	0.1	0.2	0.2	0.2	0.2	0.4
Youth Tobacco Prevention									0.1	0.1
WSP									0.2	0.2
Toxicology										
Total	163.0	157.1	164.7	168.5	184.2	196.5	197.9	207.9	215.9	224.4

Challenges to Future Revenue Growth

- State stores are intended to meet un-stimulated demand.
- State law forbids the agency to advertise or engage in product promotion through discounting.
- The state's two-year appropriation cycle slows the ability to respond quickly to a wide range of business challenges – to open new stores and relocate existing stores, for example.
- The uncertainty of the appropriations process significantly diminishes the agency's ability to plan and perform strategically.
- Employee hours allocated to support retail sales have been reduced.
- The Distribution Center will reach its operational limit in two years.

Distribution Center Capacity Issues

The Retail Business Plan emphasizes the need for adding capacity to the Distribution Center during the next biennium. The WSLCB distributes spirits and wine to its more than 310 state and contract stores from the DC in Seattle. Designed for a maximum daily shipping volume of 17,500 cases, the warehouse is nearing its capacity during peak shipping periods. Shipping volumes are expected to exceed capacity by FY 2005, outstripping both equipment and labor resources. The chart below shows the trend in cases shipped with projections to 2011.

August 5, 1986

The regular meeting of the Washington State Liquor Control Board was called to order at 9:30 a.m., Tuesday, August 5, 1986, in the Board conference room, fifth floor, Capital Plaza Building, Olympia, by Chairman L. H. Pedersen. Board Members Kazuo Watanabe and Robert D. Hannah were present. Board Secretary Judy Pierce recorded the meeting.

PUBLIC HEARING - PROPOSED RULE CHANGE. Chairman Pedersen announced that this was the date and time scheduled for a continuation of the public hearing to consider and take action concerning the amendment of WAC 314-20-100 "Beer Wholesale Price Posting," WAC 314-20-105 "Beer Supplier's Price Filings, Contracts and Memoranda," WAC 314-24-190 "Wine Wholesale Price Posting," WAC 314-24-200 "Wine Suppliers' Price Filings, Contracts and Memoranda," and WAC 314-52-114 "Advertising by Retail Licensees, Offering for Sale, or Selling Beer, Wine or Spirituous Liquor at Less Than Cost--Prohibited--Exceptions." He noted that the appropriate notices have been filed with the Code Reviser's office and mailed to various news media and interested persons.

John Hennen, Senior Assistant Attorney General, indicated that the hearing had been continued from July 1, 1986, because of a substantial change in the proposed language--adding ten percent to the acquisition cost.

Chairman Pedersen asked if anyone present wished to speak either in favor of or in opposition to the proposed amendments.

Geoff Gibbs, attorney representing the Washington State Food Dealers Association and G. Heileman Brewing Company, spoke to the issue of shipping costs of in-state breweries vs. out-of-state breweries. He indicated that G. Heileman is willing to do whatever is necessary to make any concessions regarding freight charges as they relate to acquisition cost in order to accommodate the out-of-state breweries, should the Board decide to change the definition of acquisition cost.

Hank Sitko, President of the Washington State Food Dealers Association, said the Association supports the Board's proposed amendments.

Robert Seeber, representing the Washington State Restaurant Association, and particularly the A, C, D and H licensees, indicated that they believe the addition of

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ten percent t acquisition cost is unwor' le as it relates to on-premise licensees--that in fact it creates more problems for them. He recommended that subsection (b) of WAC 314-52-114 not be repealed, and that cost of doing business be defined as acquisition cost plus the actual cost of doing business. Mr. Seeber questioned the Board's authority regarding this issue, and suggested that a formal Attorney General's opinion be requested to see if defining cost of doing business is consistent with the consumer protection act.

John Hennen said in his opinion the Board has the statutory authority under Title 66 RCW to approve the proposed amendments, or to repeal the entire section if they so desire. He said action on these rule amendments is a policy decision based on what the Board feels is necessary to implement the liquor act.

Linda Christophersen, attorney representing Miller Brewing Company, spoke in opposition to the proposed amendment of WAC's 314-20-100 and 314-20-105. She said they supported acquisition cost as cost of doing business, but feel that adding ten percent is an arbitrary decision which has no firm data to substantiate it. She questioned whether or not there is, in fact, a problem, as well as the constitutionality of the proposed rule changes. Ms. Christophersen urged the Board to take action only after they have carefully articulated the need and have based their decision on hard facts.

Jan Britt, Supervisor - M.I.W. Division, said staff has taken an active role in assessing the need for the proposed rule amendments, and believes there is a need for the changes.

Following additional discussion, Board Member Watanabe moved to adopt the proposed amendments of WAC's 314-20-100, 314-20-105, 314-24-190, 314-24-200 and 314-52-114, and proceed with the necessary rule-making procedures. Board Member Hannah seconded the motion and it carried unanimously. The public hearing ended at 10:05 a.m.

MEETING RECESSED. The meeting was recessed at 10:05 a.m., until the call of the Chair.

MEETING RECONVENED. The meeting was reconvened at 11:33 a.m. by Chairman L. H. Pedersen. Board Members Kazuo Watanabe and Robert D. Hannah were present. Present to confer with the Board were Bob Harvey, Liquor Purchasing Agent, and Ken Cribari and Ben Di Julio representing Guild Wineries and Distilleries.

OFFICE OF THE WASHINGTON STATE LIQUOR CONTROL BOARD

July 1, 1986

The regular meeting of the Washington State Liquor Control Board was called to order at 9:30 a.m., Tuesday, July 1, 1986, in the Board conference room, fifth floor, Capital Plaza Building, Olympia, by Chairman L. H. Pedersen. Board Members Kazuo Watanabe and Robert D. Hannah were present. Board Secretary Judy Pierce recorded the meeting.

PUBLIC HEARING - PROPOSED RULE CHANGE. Chairman Pedersen announced that this was the date and time scheduled for a continuation of the public hearing to consider and take action concerning the amendment of WAC 314-20-100 "Beer Wholesale Price Posting," "WAC 314-20-105 "Beer Supplier's Price Filings, Contracts and Memoranda," "WAC 314-24-190 "Wine Wholesale Price Posting," "WAC 314-24-200 "Wine Suppliers' Price Filings, Contracts and Memoranda," and WAC 314-52-114 "Advertising by Retail Licensees, Offering for Sale, or Selling Beer, Wine or Spirituous Liquor at Less Than Cost--Prohibited--Exceptions." He noted that the appropriate notices have been filed with the Code Reviser's office and mailed to various news media and interested persons.

John Hennen stated that on March 13, 1986, the Board held a public hearing concerning changes to the aforementioned WAC's which deal with selling below cost. At that time, Board staff proposed that "acquisition cost" be inserted in place of language which said "cost of doing business as referred to in 19.90 RCW." RCW 19.90 was repealed by the 1983 Legislature.

Mr. Hennen reiterated that the current rules with the outdated language are unworkable in that a determination of "cost of doing business" requires the use of debatable accounting concepts and creates numerous problems for both the clients who are regulated by it and the employees who are charged with enforcing the rule.

Jan Britt, Supervisor - M.I.W. Division, added that at the March 13 meeting, several members representing various tiers of the liquor industry were present. Most spoke against acquisition cost, unless a specific percentage was added to the language. Industry members felt that if their competitors could sell at acquisition cost, some of them would be put out of business due to increased competition.

LCB01001062

July 1, 1986

At the March 13 meeting, the Board charged industry members and Board staff with the responsibility to meet and come up with a recommended set percentage to be added to acquisition cost. Since that time, however, the Attorney General's Division has informed staff that a meeting between Board staff and industry members may constitute a violation of anti-trust laws and, therefore, the meeting was never held.

Ms. Britt said that while staff still believes the language as originally proposed regarding "acquisition cost" is the best solution to removing outdated language from our rules and make the rules understandable and enforceable, if the Board wishes to add a percentage of markup to the acquisition cost language, the M.I.W. Division recommends 15 percent.

Ms. Britt also indicated that the State of New York has language establishing a 12 percent markup above overhead costs on all liquor products. This language is currently being challenged in the U. S. Supreme Court and is expected to be heard some time in July to determine if such language violates federal anti-trust laws.

Chairman Pedersen asked if anyone present wished to speak either in favor of or in opposition to the proposed amendment.

Geoff Gibbs, attorney representing the Washington State Food Dealers Association, spoke against the proposed amendment, and suggested that more reasonable language would be acquisition cost plus a stated percentage, comprised of a reasonable, minimum markup.

Hank Sitko, President of the Washington State Food Dealers Association, was also opposed to the proposed amendment. He said percentages of markup vary because of the different types of stores--from convenience to supermarkets. He indicated that a survey was conducted, picking a representative sampling of their membership, and the percentages of markup ranged from 11 to 30, for an average of 20. He also was supportive of cost of doing business defined as acquisition cost plus a reasonable markup.

Ken Stormans, Olympia retailer, agreed with Messrs. Gibbs and Sitko, and suggested that acquisition cost include a specific percentage markup.

LCB01001063

July 1, 1986

John Hennen addressed the question of whether or not Board employees were citing businesses that were selling below cost. He said that the WAC, as currently written, is unenforceable and no violations have been issued to either wholesalers or retailers since the first public hearing on this proposed rule amendment.

Hal Wolf, retailer in Yelm, said he would support acquisition cost plus ten percent. He stated he was opposed to the concept of the Board "promoting the sale of alcoholic beverages" by allowing sales at cost.

Gwen Johnson, representing Thirsty's Beverages in Seattle, said she agreed with the previous testimony regarding the suggestion to define cost of doing business as acquisition cost plus markup.

Bob Seeber, representing the Washington State Restaurant Association, and particularly the class H licensees, said their sole concern is regarding WAC 314-52-114 as it relates to licensees selling spirituous liquor. He stated that the proposed amendment doesn't do anything for his clients; a ten percent markup on top of cost of acquisition wouldn't come anywhere near the cost to maintain a cocktail lounge, etc. He recommended that subsections (a) and (b) not be repealed, and indicated that "cost of doing business" should be defined as acquisition cost plus the actual cost of doing business.

John Hennen addressed staff's recommendation to delete subsections (a) and (b) of WAC 314-52-114. He said for staff to properly administer the rule with the inclusion of these two subsections would not be easy, nor would it be inexpensive. He suggested, rather, that it would depend on the Board's priorities as to how much resources could be put forth to enforce the rule.

Following lengthy discussion, Board Member Hannah suggested that the language be changed to define the cost of doing business as acquisition cost plus ten percent. John Hennen indicated that an amendment of this magnitude is "beyond the scope" of the notice of the public hearing as advertised, and said a new notice would have to be filed for another public hearing.

Board Member Hannah moved to continue the hearing to another date, to be scheduled as soon as possible, with the intent of amending the rule to define the cost of doing business as acquisition cost plus ten percent. Board Member Watanabe seconded the motion and it carried unanimously. The public hearing ended at 10:30 a.m.

LCB01001064

OFFICE OF THE WASHINGTON STATE LIQUOR CONTROL BOARD

August 14, 1985

The regular meeting of the Washington State Liquor Control Board was called to order at 9:30 a.m., Wednesday, August 14, 1985, in the Board conference room, fifth floor, Capital Plaza Building, Olympia, by Chairman L. H. Pedersen. Board Members Kazuo Watanabe and Robert D. Hannah were present. Judy Pierce, Board Secretary, recorded the meeting.

ATTORNEY GENERAL'S DIVISION - RULE CHANGE PETITION. John Hennen, Senior Assistant Attorney General, reported that a petition has been filed by the Beer and Wine Wholesalers Association which would, in effect, change the date on which beer price postings are to take place, so that they would coincide with the date for wine price postings. This would involve amendments of WAC 314-20-100, "Beer Wholesale Price Posting," and WAC 314-20-105, "Beer Suppliers' Price Filings, Contracts and Memoranda."

Mr. Hennen stated that independently of this petition, it has been noted that the two rules involved (WAC 314-20-100 and WAC 314-20-105) as well as WAC 314-24-190 and WAC 314-24-200, both dealing with wine, contain references to chapter 19.90 RCW, which has been repealed by the legislature. While it was suggested that these references be deleted, he said the question would be what they should be replaced with. Mr. Hennen added that a petition for an amendment of WAC 314-52-114 to change the definition of "cost," for purposes of sales below cost, is still in limbo as the Board has requested suggestions from a committee of the industry concerning wording for the replacement language. He said the prohibition on sales below cost, which appears in one form or another in all four of the rules mentioned above, is presently unenforceable, and will remain so until clarifying language is adopted (or alternatively, until the prohibitions themselves are deleted).

Jan Britt, Supervisor, M.I.W. Division, said that her staff is not opposed to the petition for rule change. Ms. Britt also indicated that the WAC Review Committee will be meeting next week to discuss chapter 19.90 RCW, and will subsequently be making recommendations to the Board. General discussion followed.

LCB01001065

August 14, 1985

Board Member Watanabe moved to hold over any decisions for two weeks. Board Member Hannah seconded the motion and it carried unanimously.

FINANCIAL DIVISION - NABCA COMMITTEE ASSIGNMENTS. Jim Hoing, Controller, stated that he has been invited by NABCA President Kenneth F. Wynn to serve on the Federal Affairs and Legislative Committee and the New Products and Procedures Committee. Mr. Hoing said he has served on the New Products and Procedures Committee in the past and is willing to serve again. He indicated that he did not see a need to serve on the Federal Affairs and Legislative Committee. Following discussion, Board Member Hannah moved approval of Mr. Hoing's appointment to the New Products and Procedures Committee. Board Member Watanabe seconded the motion and it carried unanimously.

FINANCIAL DIVISION - AGENDA FOR STAFFING COMMITTEE. Mr. Hoing said on June 26, 1985, the Board appointed three committees, one of which was a Staffing Committee. At a subsequent Board meeting, the Board directed the committee, as its first order of priority, to recommend a staffing level for the stores for fiscal year 1986. He said this has been done and the Board has taken appropriate action.

Mr. Hoing stated it is now the committee's intention to establish an agenda of projects for the remainder of the year. He requested that the Board review the following agenda and make any desired additions, deletions and/or adjustments.

1. A workload measuring indicator which can be utilized for budgeting purposes and for allocation of budget between stores.
2. The makeup of the staffing of stores--all full-time versus a combination of full-time, part-time and intermittent.
3. Hours of operation of the stores.
4. Store closures and the effect on stores' productivity and on the surrounding communities.

LCB01001066

OFFICE OF THE WASHINGTON STATE LIQUOR CONTROL BOARD

August 28, 1985

The regular meeting of the Washington State Liquor Control Board called to order at 9:30 a.m., Wednesday, August 28, 1985, in the conference room, fifth floor, Capital Plaza Building, Olympia, by Chairman L. H. Pedersen. Board Member Robert D. Hannah was present. Pierce, Board Secretary, recorded the meeting.

DIVISION - TRAINING REQUEST. Gary Mark, Training Officer, presented a request from the Distribution Center for staff to attend courses in forklift maintenance and repair being offered by the Hyster Company. The specific classes, employees to attend, dates, and cost are: (1) Power Shift Transmission, Greg Streib, September 3, 1985, \$500.00; (2) Fuel Systems, Jim Rock, October 1, 1985, \$185.00; (3) SCR Electric Truck Maintenance, Bob Catlin, October 7-9, 1985, \$350.00; (4) Internal Combustible Truck Maintenance, Greg Streib, December 3, 1985, \$500.00; and (5) Electric Truck Battery Maintenance, Glen Lumsden, \$150.00. Mr. Mark said he has discussed the request with Dick Foltz, Distribution Center Manager, and concurs that this training offers the opportunity to have Distribution Center staff well-trained in forklift maintenance and repair. He said the employees attending the classes will, in turn, train other maintenance staff. Mr. Mark recommended board approval. Board Member Hannah moved to approve the request. Chairman Pedersen seconded the motion and it carried.

ATTORNEY GENERAL'S DIVISION - RULE CHANGE PETITION. John Hennen, Senior Assistant Attorney General, reported that a petition has been filed by the Washington Beer and Wine Wholesalers Association which would, in effect, change the date on which beer price postings are to take place so that they would coincide with the date for wine price postings. This would involve amendments of WAC 314-20-100 "Beer Wholesale Price Postings" and WAC 314-20-105 "Beer Suppliers' Price Filings, Contracts and Memoranda." Mr. Hennen noted that RCW 19.90 is referenced in the aforementioned WAC's, as well as in WAC 314-24-190, WAC 314-24-200, and WAC 314-52-114; however, this RCW was repealed by the legislature.

LCB01001067

August 28, 1985

These rules, therefore, contain an obsolete statute reference (RCW 19.90) and the portions of the rules containing that reference are presently not enforceable, and will remain so until some clarifying amendments are made.

Vern Lindskog, attorney representing the Washington Beer and Wine Wholesalers Association, urged the Board to accept the petition and initiate the necessary rule-making procedures as soon as possible.

Phillip Wayt, Executive Director of the Washington Beer and Wine Wholesalers Association, also requested that the Board adopt the proposed petition.

General discussion followed. Staff indicated that the WAC Review Committee has met and discussed the problem of the obsolete statute reference (RCW 19.90). Because of differences of opinion on how to resolve this issue, the committee is not yet ready to make recommendations to the Board. This will not, however, affect the adoption of the petition before the Board.

Board Member Hannah moved to accept the petition as filed by the Washington Beer and Wine Wholesalers Association and proceed with the necessary rule-making procedures. Chairman Pedersen seconded the motion and it carried.

FINANCIAL DIVISION - PURCHASE OF OVERHEAD CONVEYOR. Max Hansen, Supply Supervisor, submitted a request from the Distribution Center for the acquisition of an overhead conveyor unit that will be used in the split case area to convey empty cardboard cartons outside to the proximity of a baler. Mr. Hansen said a program is being pursued whereby the State Surplus Property Division will supply a baler on a lease purchase arrangement, using the sale of the baled cardboard cartons to pay lease costs. As soon as the details of this agreement are finalized, a request will be presented to the Board for expenditure of the required funds.

Mr. Hansen said the request for the conveyor purchase is being submitted at this time, ahead of the baler request, because of the necessary lead and installation time, which could be in excess of 60 days from the date of the request. He said purchase and installation

LCB01001068

January 15, 1986

Mr. Mark requested Board authorization for payment of four hours pay, on a one-time basis, to qualifying employees, as well as the issuance of lapel buttons. Following discussion, Board Member Hannah moved approval. Board Member Watanabe seconded and the motion carried unanimously.

ATTORNEY GENERAL'S DIVISION - REQUEST FOR INDIVIDUAL DEFENSE. John Hennen, Senior Assistant Attorney General, presented a request for individual defense for Alfred D. Anderson in the case of William L. Brown v. Alfred D. Anderson, et al. Mr. Hennen indicated that Mr. Anderson is a former Board employee who was involved in an automobile accident while employed by the Board. He said the actions giving rise to this suit occurred in the course of Mr. Anderson's official duties and responsibilities as a state employee. Board Member Hannah moved to approve the request for individual defense; Board Member Watanabe seconded the motion and it carried unanimously.

M.I.W. DIVISION - PROPOSED RULE CHANGES. Jan Britt, Supervisor, reported that the following rule changes are being proposed by the WAC Review Committee:

1. 314-20-100(7)(8) - deletes outdated language which refers to RCW 19.90 and adds replacement language of "acquisition cost."
2. 314-20-105(5) - deletes outdated language which refers to RCW 19.90 and adds replacement language of "acquisition cost."
3. 314-24-080 - eliminates reference to container sizes listed in U.S. gallons or fractions thereof and allows for all sizes approved by the Bureau of Alcohol, Tobacco and Firearms, or other sizes as approved by the Board.
4. 314-24-190 - amends references to the wine tax to include the surcharge so the reader will know the wine tax is \$0.2167 per liter; deletes references to 19.90 RCW and adds the language "acquisition cost."

LCB01001069

January 15, 1986

5. 314-24-200 - amends reference to the wine tax to include the surcharge so the reader will know the wine tax is \$0.2167 per liter; deletes references to 19.90 RCW and adds the language "acquisition cost."
6. 314-28-010 - updates the reference to a \$50.00 license to the \$200.00 fee which was set by the 1981 Legislature.
7. 314-52-114 - deletes hard-to-understand language relating to the cost of doing business and inserts the language "acquisition cost."

Phil Wayt, Washington Beer and Wine Wholesalers Association, questioned the interpretation and definition of the words "acquisition cost." He said he had inquired as to whether or not freight and applicable taxes would be included, and had been informed by John Hennen that they would. Mr. Wayt requested that either the language be more definitive, or that an Attorney General's opinion be issued, stating that acquisition costs include the cost of freight and taxes.

Following discussion, Board Member Hannah moved to approve the proposed rule changes and proceed with the necessary rule-making procedures. Board Member Watanabe seconded the motion and it carried unanimously.

STORES AND AGENCIES DIVISION - RELOCATION OF AGENCY. Lowell Hanson, Operations Supervisor, reported that the Manager of Agency No. 651, Ambry, has requested permission to relocate the agency. Mr. Hanson recommended Board approval as this will provide a better location and parking for customers. Board Member Hannah moved approval of the relocation; Board Member Watanabe seconded and the motion carried unanimously.

STORES AND AGENCIES DIVISION - LEASE EXPIRATIONS. Lowell Hanson indicated that the lease for Store No. 174, Vashon, expired November 30, 1985, and the lease for Store No. 181, Spokane, expired December 31, 1985. Staff is in the process of negotiating lease renewals, and Mr. Hanson recommended month-by-month extensions of the leases until the new

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WASHINGTON STATE LIQUOR CONTROL BOARD
INTEROFFICE CORRESPONDENCE

December 8, 2004

To: Chairman Merritt Long
Board Member Vera Chan Ing
Board Member Roger Hoen

From: Heidi Whisman, Acting Director Purchasing
Steve Burnell, Wine Program Manager

Subject: WINE STRATEGY 7 – RETAIL PRICING IMPLEMENTATION RECOMMENDATION

Background

The Board approved the Wine Strategy Implementation Plan in July 2004. This five-year plan encompasses seven different strategies to improve the wine program in WSLCB retail outlets, including the following short and long term elements which make up strategy seven, Retail Pricing:

Short Term

- o Complete a pricing analysis on the top 100 selling LCB wines by August 27, 2004 to determine which items are below the market price
- o For those items below the market price the LCB will increase the markup formula on those items to have the LCB retail price reflect the market price

Long Term

- o Use the LCB market share to determine future consideration for markup increases. If the LCB share rises to over 10% as compared with the private sector a markup price increase will take place.

Regarding the short-term strategy, staff recently completed analysis of the LCB's average retail price for the top 100 selling wines (based on case sales) in comparison to the average market price of these same wines when sold by private retailers. Completion of the price analysis was delayed due to retirement of key staff from the Purchasing Division and competing priority projects.

For the analysis, ACNielsen average prices were compared to the Board's average price for a 52-week period. This analysis showed that on average, the LCB prices were 13 percent lower than the Nielsen price.

As shown by the Executive Summary in "A Comparison of Wine Prices", making price comparisons between the state wine prices and those of the various private retail channels, with differing business models, is a complex and difficult process that does not provide one absolute conclusion. The same held true for this most recent price comparison conducted by staff.

The following recommendation for implementation of strategy seven is based on this most recent price analysis data, the overall Wine Strategy Implementation Plan and the information used to develop it, the LCB's Strategic and Retail Business plans, and in consideration of all LCB stakeholders.

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Goal of Recommendation

Implement a price adjustment that is in alignment with the Short Term Strategy, allows for a degree of price parity on the top 100 wines sold by both the Board and private retailers, and positions the Board for a smooth transition into the Long Term strategy.

Recommendation

Short Term Implementation

Effective January 1, 2005, adjust retail prices on the top 100 wines to reflect the average market price shown in the Nielsen data.

Long Term Implementation

Monitor and review the price adjustment effect on market share, sales, and revenue. If the LCB share rises to over 10% as compared with the private sector a markup price increase will take place.

FOR BOARD APPROVAL:

Approved
12/08/2004
DATE

ma
attachments
cc: Pat Kohler
Rick Garza
Heidi Whisman
Steve Burnell
Cindy Doughty
Nancy Massaia
Kelly Higbee
Nancy Sauer
Chris Liu

2 fall 2003

LIQUOR CONTROL BOARD

WINE PROGRAM STRATEGY

2004 - 2009

Purpose

The Liquor Control Board's strategic plan goal is to provide excellent customer service to our customers. The WSLCB Wine Program is one of the services the LCB provides. We have employed the consulting services of Paul Gregutt, a respected wine professional with two decades of experience reporting on the Washington state wine industry. Paul is assisting the Wine Program Manager and Purchasing Services division to develop a five-year strategy for the Wine Program. Improvements to the current program are being developed in partnership with key stakeholders.

This updated strategy will outline the direction of the Wine Program for the next five years. Specific areas of consideration will focus on maximizing revenues to the state's taxpayers, streamline business practices and create new ones, and continue to strengthen partnerships with customers, stakeholders and employees

Executive Summary

In preparing this proposed Wine Program Strategy for the next five years, Steve Burnell and Paul Gregutt toured a number of LCB retail outlets and interviewed several managers. They also inspected several non-LCB wine retailers, paying particular attention to such specifics as product mix, signage, product merchandising and displays, point of sale materials and pricing. Paul also reviewed in detail the July 2002 Retail Services Business Plan and the July 2003 - 2008 Strategic Plan, and completed the process of stakeholder interviews with the 11 stakeholders on the list provided.

The Washington State Liquor Control Board has been a retailer of wine for over 68 years. The Board last reviewed the Wine Program in 1996 and implemented changes to the program resulting in a significant boost in

dollar volume of wine sales dollar but maintaining a fairly stable share of wine sales in the state as compared to the private sector.

The LCB Wine Program not only contributes valuable revenue to state coffers; it also provides a much-needed lift to the state's \$3 billion wine industry, which is facing unprecedented global competition and a significant, industry-wide downturn. All but 25 of the state's 275+ wineries produce 5000 cases or less annually, making distribution through traditional wholesalers difficult or impossible. The LCB offers small, mom 'n' pop Washington wineries "one stop" distribution, a vital boost to their struggling businesses. The addition of such limited-production, fine wines to LCB offerings brings in a more sophisticated, more affluent consumer, and in my view elevates the image of all the state stores.

This plan will focus on some key strategies and recommendations:

1. Merchandising

Create four specifically defined store "clusters". Using demographic criteria, the spirit community has identified three clusters of stores for the spirit shelf reset. The wine program should use these three clusters as well, and define a "core" group of wines for sale in each. This would provide customers with a consistent look and selection for the stores in each cluster and provide a much easier shopping experience. The current HUB store program would become the fourth cluster, offering an expanded selection of wines.

2. Product Selection

Reduce the total number of wine selections and tighten the focus of the inventory to highlight proven winners and regional assets. Simplify the shopping experience for customers.

3. Do more attractive, customer-friendly in-store marketing

- Updated, clear and useful signage
- Clear, well-marked price stickers (eliminate odd price points)
- Chalkboard "Manager's Specials"
- Readily available, helpful point-of-sale materials
- Reading areas with magazines, wine columns, reviews
- Add customer-service gift items to store inventory (corkscrews, wine bags, ice buckets, etc.)

4. Specialty outlets

Establish outlets to sell wines in new locations not currently being served by other retailers. Airports in particular offer the opportunity to sell Washington state wines to customers not reached by supermarkets or wine shops.

In larger stores create a "store within a store" featuring Washington state wines in a unique, dedicated area. Included would be educational materials such as maps, brochures and wine reviews from major publications and newspaper columnists.

5. Training

Develop training programs for all employees, working with suppliers and the Washington wine commission whenever feasible to keep costs down. Such continued training will enhance the level of customer service employees are able to provide.

6. Pricing Strategy

An independent price comparison study commissioned by the LCB concluded that "the Liquor Control Board, while offering highly competitive prices, is not always the lowest price seller, nor do they significantly undersell the least expensive chain store."

With this in mind, we strongly recommend that the LCB keep the current pricing strategy in place, while clearly re-stating the current policy wherein the producer and distributor determine who will be the supplier of record to the LCB.

History of WSLCB Wine Retailing

The Board began selling wine in 1934 shortly after Prohibition was lifted. It was the only channel able to sell wine until 1935, when the law changed, allowing Washington wineries to sell directly to retail licensees, or to appoint beer wholesalers as their agents. This remained in effect until 1969, when the Legislature passed House Bill 100 (the California Wine Bill). This allowed wines produced out-of-state to be sold directly through licensed channels, without first having to be sold through the Board. This change in law essentially created the three-tier wine distribution system that exists today.

At this time, the number of retail outlets where all types of wines became available increased from 273 WSLCB retail stores to 4,187 (offering wine in the original package for off-premise consumption).

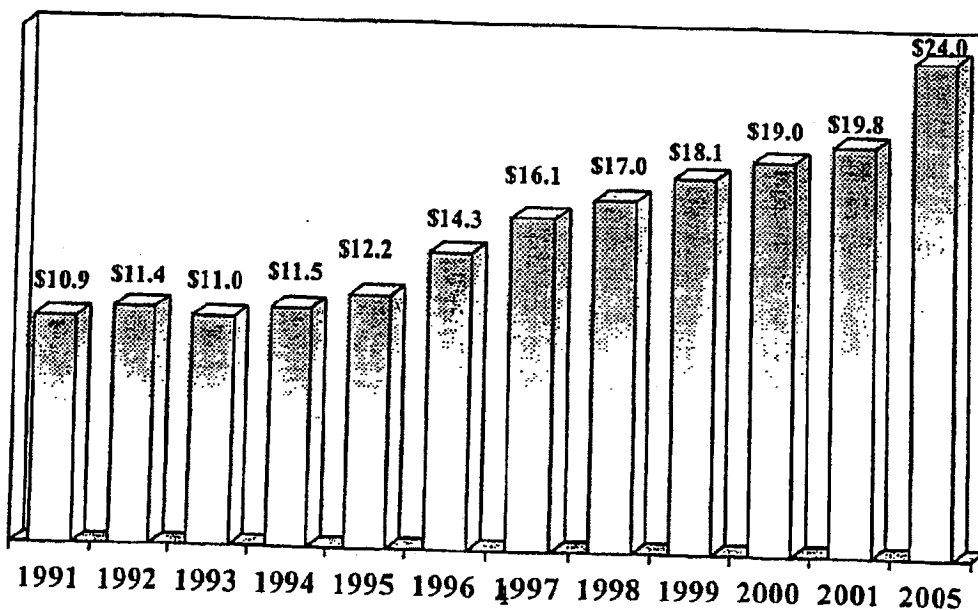
In 1995, the Board reviewed the wine program, prompted by declining sales of wine in state stores. It was determined that improvements were necessary to provide customers with a good selection of wines, and to provide the level of service that was becoming the industry standard. A Wine Program Manager was hired and changes were implemented to increase the service level to the public.

The WSLCB's volume share of wine sales in Washington State was 58.1% in FY 1969. For the last 18 years (FY 1985 through FY 2003) the WSLCB's volume share of wine sales has remained relatively constant, ranging from a low of 8% to a high of 11%. In 2003 the percentage was 8.9%.

Wine Industry Overview

A worldwide oversupply of wines and grapes is the engine driving dramatically increased competition, ongoing corporate consolidations and significant price reductions among wine producers, importers and distributors. The consumer is the ultimate beneficiary, as more wines and better wines at better prices are available today than ever before.

In the US, overall wine sales hit an all-time high of \$20.8 Billion in 2002; an increase of 9.4% over 2001. Projections call for further increases over the next three years, to roughly \$24 Billion by 2005, according to the Adams Handbook.



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Led by premium varietals, table wine sales grew by 4.2%, to 216.7 million (9 liter) cases. Sales of imported wines were up 9.5%, while domestic growth was just under 2%.

Washington, the second largest wine producing state, was the tenth in consumption nationally – an impressive figure, given that the state ranks just 15th in population overall.

Wine Consumption By State							
1	California	42,180,000	18.1%	27	South Carolina	2,324,000	1.0%
2	New York	18,590,000	8.0%	28	New Hampshire	2,178,000	0.9%
3	Florida	18,016,000	7.7%	29	Alabama	1,951,000	0.8%
4	Texas	11,528,000	4.9%	30	Kentucky	1,572,000	0.7%
5	Illinois	10,462,000	4.5%	31	Hawaii	1,375,000	0.6%
6	New Jersey	10,400,000	4.5%	32	District of Columbia	1,320,000	0.6%
7	Massachusetts	8,947,000	3.8%	33	Rhode Island	1,314,000	0.6%
8	Pennsylvania	6,634,000	2.8%	34	Maine	1,278,000	0.5%
9	Michigan	6,271,000	2.7%	35	Oklahoma	1,245,000	0.5%
10	Washington	6,221,000	2.7%	36	Idaho	1,200,000	0.5%
11	Ohio	6,200,000	2.7%	37	New Mexico	1,095,000	0.5%
12	Virginia	6,039,000	2.6%	38	Iowa	1,066,000	0.5%
13	Georgia	5,590,000	2.4%	39	Kansas	1,045,000	0.4%
14	North Carolina	5,369,000	2.3%	40	Delaware	1,028,000	0.4%
15	Colorado	4,634,000	2.0%	41	Arkansas	919,000	0.4%
16	Connecticut	4,511,000	1.9%	42	Vermont	836,000	0.4%
17	Arizona	4,461,000	1.9%	43	Mississippi	816,500	0.4%
18	Maryland	4,192,000	1.8%	44	Utah	770,000	0.3%
19	Oregon	3,968,000	1.7%	45	Nebraska	731,000	0.3%
20	Wisconsin	3,851,000	1.7%	46	Montana	711,000	0.3%
21	Missouri	3,477,000	1.5%	47	Alaska	596,000	0.3%
22	Minnesota	3,338,000	1.4%	48	West Virginia	477,000	0.2%
23	Nevada	3,272,000	1.4%	49	South Dakota	293,000	0.1%
24	Indiana	3,160,000	1.4%	50	Wyoming	284,000	0.1%
25	Louisiana	2,702,000	1.2%	51	North Dakota	253,000	0.1%
26	Tennessee	2,390,000	1.0%	Total	233,980,500	100.0%	

Consumer tastes are evolving, with local trends mirroring national patterns. Over the past decade, ACNielsen data shows, red table wine case volume share has climbed from 17% to 37%, more than doubling; while white table wine case volume has declined from 49% to 40%. The biggest loser has been the blush wine category, tumbling from 34% of table wine case volume sales in 1991 to just 23% in 2001. These trends are expected to continue.

West Coast Wine Industry Overview

From California to British Columbia, the entire west coast is recording dramatic growth in each state's wine industry, with a commensurate and steadily increasing impact on the economic contribution for each state.

California

The full economic impact of the wine industry in 2001 totaled \$33 billion, counting revenues to the wine industry and allied industries, and direct and indirect economic benefits, according to the California Wine Institute. In 1998, California vintners produced 444 million gallons of wine – 90 percent of the total U.S. wine production. If California were a nation, it

would be the fourth leading wine-producing country in the world, behind Italy, France and Spain. The industry employs 145,000 full-time equivalent jobs in wineries, vineyards or other affiliated businesses, with total wages exceeding \$4 Billion dollars. California wine shipments to the U.S. market in 2003 hit a record high of 417 million gallons (2/3 of all U.S. wine sales), led by "extreme value varietals" selling for \$3 or less, according to the Wine Institute.

Washington

Washington's growth as a wine producing state has been nothing short of explosive. According to an in-depth economic study done by Motto Kryla & Fisher Research, and delivered to the Washington Wine Commission in March 2001, the overall economic impact of the wine industry in Washington State is \$2.4 Billion annually. By some estimates it has since topped \$3 Billion, and continues to grow.

In sheer numbers, this state has been adding a new winery every two weeks for the past few years. In 1981 there were just 19 wineries in the state; there are now close to 275 bonded wineries in Washington — more than the Napa valley.

The Washington Association of Wine Grape Growers counts over 300 members, and total vineyard is around 28,000 acres — up from 11,100 acres just a decade ago. By comparison, New Zealand has around 27,000 acres, and the Napa Valley, with 232 wineries, claims 36,115 acres.

Overall production of Washington wines has more than doubled in the past decade, and wine grapes are now the state's fourth largest fruit crop. Red wine production continues to climb and now accounts for 57% of the total.

In terms of economic impact, the wine industry generates \$2.4 billion annually (as of 2000). There are 11,250 full-time equivalent wine-related jobs paying \$350.2 million in annual wages. Winery revenues statewide are close to \$300 million annually, and the industry contributes over \$72 million in taxes.

Though Washington leads the Pacific Northwest in wine production, it is not alone. This is a world-class, wine producing region that also includes Oregon (with 11,000 acres of vineyard and over 200 wineries), Idaho and British Columbia.

Washington was the first American wine producing region to be named "Wine Region of the Year" by Wine Enthusiast magazine (in 2001). The state has five officially designated AVAs (American Viticultural Regions), with another four or five in development. Washington wines are sold in all 50 states and more than 40 foreign countries.

Senator Mike Hewitt, R-Walla Walla, was recently quoted in a Seattle Times article about Walla Walla Community College's new Institute of Viticulture & Enology. "This is an industry that's doing well," Hewitt explained to reporter Tom Skeen. "It's a gold spot in the economy."

Oregon

In 2002 Oregon ranked fourth in the US for wine production (behind California, Washington and New York), with a total of 217 wineries. Oregon wine sales have increased over 400 percent in the last decade. The vast majority of the state's wineries are very small as compared with other major wine-producing regions. Oregon does not have any wineries producing the case volume seen in many of the California and several of the Washington wineries.

British Columbia

According to the British Columbia Wine Institute, the number of BC wineries was 54 in 2001, an increase of 65% in just three years. The wine-specific contribution to the Provincial Government was \$101,000,000 in 2001, and wine tourism revenue added another \$79,200,000. The wine industry employs 1,237 full time jobs directly and accounts for another 1,165 in indirect jobs.

Retail Trends

Nationally there is one big retailing story and it comes down to three words: Two Buck Chuck.

Discount grocer Trader Joe's uncorked the trend with its \$1.99 a bottle (\$2.99 in Washington) Charles Shaw wines, made by Bronco Wine Co. It ranks as the fastest-growing table wine brand in the U.S. industry's history, according to Jon Fredrikson, publisher of wine industry newsletter the Gomberg-Fredrikson Report.

A recent New York Times article noted that the Charles Shaw wines, introduced a year ago, began generating publicity and huge sales around

the holidays, with sales totaling two million cases by year's end. Fredrikson predicts sales of five million cases for the brand in 2003, and notes that in California it is currently outselling all the Gallo labels combined.

Others have been watching, and are quickly jumping into the market. Reuters reports that Safeway and Fred Meyer stores now carry Pacific Peak, another \$1.99 California wine (again, a dollar higher in Washington). Golden State Vintners, which makes Pacific Peak wines, expects to create similar \$1.99 lines for other chains, according to marketing director Steve Lindsay.

Boise-based Albertsons is also in the game. Albertsons stores are selling Pine Brook merlot at \$2.99 per bottle with good sales results, according to Dennis Schwarz, director of marketing for the 141-store chain.

The retail landscape is in a period of significant transition, as more retailers are getting into the wine business. According to the ACNeilson 2002 Channel Blurring Report: "Beverage alcohol consumer's shopping options are expanding with the number of convenience stores, super centers and club stores expanding." One example is the growth demonstrated by super centers, which have increased from 148 locations in 1993 to 1,212 in 2001.

ACNeilson reports that "grocery is the dominant channel for wine" but goes on to point out that "fast paced life is driving up convenience store trips and increasing one-stop shopping at super centers." ACNeilson also notes that "wine is the best developed of the three (beer, wine and spirits) in warehouse clubs — almost 15% of its buyers purchase the category in this channel, accounting for over 10% of all wine off-premise sales. Wine and Beer category growth in warehouse clubs exceeded that of all channels. Costco is aggressively pursuing the beverage alcohol consumer, and now claims to be America's largest wine retailer, with sales of more than half a billion dollars in 2001 (NY Times)."

The ACNeilson 2002 Channel Blurring Report summary found the following:

- Consumers take advantage of channel options
- Grocery channel shopping frequency continues decline
- Super centers are posting strong penetration gains

The message to grocery retailers was "alternative channel retailers are coming after your shoppers and their shopping trips."

Along with global changes in the retail landscape, locally large grocery chains are responding by increasing their margins for wine. Various mark-up formulas exist among the four largest grocery chains, but generally speaking, the trend is to not pass through to the consumer many wholesaler discounted prices. Margins are also increasing on sale wines and on the wines featured in weekly ad campaigns. These practices increase the profit-per-sale but may ultimately erode market share.

Assessment of the Current Wine Program – Strengths and Weaknesses

In assessing the strengths and weaknesses of the existing system, we wanted to focus on wine sales from a customer-centric point of view. Our thinking is that the Wine Program must remain focused on maximizing its profits by improving its product mix, expanding its promotional reach (within the limits of the law) and putting a strong emphasis on those things it does best.

A study completed in December 1995 determined that LCB wine sales made a net contribution to the General Fund of \$2,579,374 on gross wine sales of \$19,096,133. The financial impact was again reviewed in December 2000 and concluded the General Fund contribution at \$7.4 million (on gross wine sales of almost \$32 million dollars). Gross sales for FY2003 will likely exceed \$38 million and the General Fund contribution is estimated at over \$8.5 million.

A more recent study by Social & Economic Sciences Research Center - Puget Sound Division, Washington State University, was completed in December 2003. It compared wine prices at state liquor stores, major grocery chains, and one "Big Box" retailer. It concluded that "if membership program prices are included, Liquor Control Board prices are competitive, but within the range of prices offered by retail grocers."

What follows is an examination of the current Wine Program's assets and liabilities, along with ideas for becoming more profitable, more user-friendly, more competitive and more differentiated in the total wine retail marketplace.

Customer Profiles

State stores have a loyal and committed customer base. LCB stores offer customers a convenient option for purchasing wine and spirits in a single location, and may carry Washington brands not available at supermarkets or specialty wine stores. Currently, LCB wine customers fall into three main types:

- Box Buyers – Entry level, price-motivated, brand-loyal
- Brand Loyalists – Buyers of best-selling, varietal 750's
- Hobbyists – Wine enthusiasts looking for boutiques; Northwest and California collectible "cult" wines

The fact that these three customer types comprise the majority of LCB patrons suggests that signage and merchandising should be organized so that each customer group can easily and conveniently find the wines that they are seeking.

Recommendations

Box buyers want to find their brand quickly and easily. In order for them to do so, box wines should always be grouped together, and the selection should be as close to uniform from store to store as possible.

Brand loyalists are looking for a particular wine, in this case, a bottle of wine. Again, the top selling 750ml brands should be uniformly available, and the signage and organization should be consistent and logical. More on this below.

Hobbyists are more adventurous. They don't mind poking around; they enjoy the thrill of the hunt. But they should not have to hunt for prices, or put up with confusing or misleading signage.

The overriding goal for all stores should be to serve each type of customer so that are 100% certain that:

- they can quickly find exactly what they want in an LCB outlet
- their needs are being recognized and served
- they won't waste time and won't make a mistake
- they will find a well-chosen mix of wines for sale
- wines are offered at competitive prices
- there is consistency in offerings at state retail stores

Product Mix

Currently, around 900 different wine SKUs (500-650 regular listings and up to 300 one-time purchases) are offered by the LCB. These offerings cover the broadest possible range of wine products, from generic 5 liter boxes to superpremium California boutiques costing over \$100 a bottle.

On the plus side, there is certainly no lack of wine choices for LCB customers. On the down side, there may be too many choices, or in some cases, the wrong choices. Consumers today want to save time and money. It is no exaggeration to say that they are burdened with choices, especially when it comes to wine. Huge displays of hundreds of wines only add to their confusion and can be turn-offs.

Smaller groupings of wines that have a specific point of difference are more likely to encourage sales. Here are some of the most useful existing and potential points of difference:

- A well-known, best-selling brand
- A high-scoring or award-winning wine (with the score or medal clearly indicated)
- A hard-to-find wine from a desirable region such as Red Mountain
- A bargain-priced wine (with the bargain price clearly indicated)
- A newly popular varietal (such as pinot gris or syrah)
- A "Manager's Selection"
- An LCB exclusive private label, along the lines of Two Buck Chuck

Bottom line: some reduction of the number of SKUs overall, along with a re-set of wines into meaningful customer-based categories, is long overdue for all LCB stores.

Signage & Pricing

In a marketing study of how consumers make shopping decisions, the New York Times described what it called "an evoked set." "Shoppers start not with every single brand they are dimly aware of, but with a group of options, the evoked set, uppermost in their minds," the paper reported. This smaller set of options, based on experience and exposure, reduces the time necessary to make a purchase. Bottom line: signage and display practices have an enormous impact on defining and/or expanding this evoked set.

Given the profusion of wine choices in state stores, the existing signage in many outlets is of limited value. In the stores we visited, large signs attempt to organize wines by varietal (e.g. "Chardonnay") or region (e.g. "Champagne"). However, within these extremely broad categories, wines are frequently not differentiated by price, quality or even region.

Worse still, much of this signage conveys an impression of staid institutionalism, and some may also inadvertently signal the more sophisticated wine consumer that this is not a wine shop suitable to his or her tastes. For example, cheap domestic sparkling wines should not be signed as "Champagne." Wine buyers know that true Champagne comes only from the Champagne region of France, not from California, Oregon or Australia!

Once the re-focusing of the product mix is accomplished, the introduction of new signage should be a priority, to clarify for the customer exactly what wines are on display, to help the customer find the specific wines or types of wines that s/he may be seeking, and to encourage the customer to experiment with new wines as they become available.

This new signage should be so crystal clear that customers need no other assistance. If there is no clerk available, the signs should be able to do the work.

Prices must be clearly marked for each bottle. Lacking specific guidance from either signage or point of sale materials, consumers will most often fall back upon familiarity and pricing to make their purchase decisions. The wines on display in the LCB outlets do not have individual price stickers on the bottles, so consumers must look to prices posted below the wines on the display rack or shelf.

This leads to considerable confusion. Some prices are missing completely. Some wines have been moved, or misplaced, and have no price indicated. Some signs do not clearly identify the wine being priced. Some price cards are tilted so that the customer must bend down or squat in order to read them!

There is a system of color-coded price cards in use that can be confusing to the consumer. Some "regulars" may know to look for the color that signals a specially reduced price, but many customers do not. Overall, the price cards are cheesy and difficult to read, and re-enforce the institutional look and feel of all the signage.

No matter what other changes are introduced into the state's wine sales program, pricing will continue to motivate potential wine customers. The newest, fastest-growing and most significant category driving wine sales is "Extreme-value varietals" (e.g. "Two Buck Chuck and its competitors). Wine consumers today are more value-conscious than at any time in recent history. Therefore, it is essential that a clearer and more user-friendly method of indicating wine prices be put in place.

Sales, close-outs, special promotions and other bargains in particular should be very clearly indicated, either by additional signage, grouping of the wines, a special shelf talker or all of the above. Pricing, apart from all else, is arguably the number one factor in most purchase decisions.

Product merchandising/displays

Signage, as noted above, is already confusing, with some wines grouped by varietal, others by region, and others simply lumped under generic categories such as "Imported". But it also points up a larger problem, which is how best to display the wide variety and vastly different categories of wines being sold.

In many LCB stores, wines are set much like the liquor. The customer walks in, sees that here is the vodka, here is the whiskey, here is the chardonnay, and so forth. Intentionally or not, this approach suggests that the LCB treats wine and spirits exactly the same, which is a turn-off for more sophisticated wine buyers.

Different ways of categorizing and displaying wines should be investigated, and resources allocated to carry out the new programs.

At a minimum, clear, simple and useful categories should replace the existing hodge-podge. The best options:

- Group certain wines by customer types (as indicated above)
- Group most wines by region: Washington, Napa, Australia, etc.
- Put jug and box wines together, separate from premium wines
- Group sale wines by magic price points (\$2.98, \$3.98 and \$4.98)

At a minimum, all box and jug wines should be grouped and displayed together. Mixing them in with 750s tends to cheapen the bottled wines; it also makes it more difficult for box wine customers to find their favorites.

Strong consideration should be given to putting a very strong focus on Washington state wines, so that customers are encouraged to support the local industry. This support of the "home team" wineries will also help to create a positive image for the LCB, and will tie in tightly with existing, ongoing promotions from the Washington Wine Commission and the regional winery associations.

Point of sale materials

Many successful retailers make use of the abundant and free point of sale materials offered by wineries, importers, distributors and wholesalers. These range from "shelf talkers" to more elaborate signs, displays, printed materials, reprints of wine columns and reviews, and other useful information such as scores from leading critics and medals won in competitions.

Some LCB stores currently have a few such materials on display, but the most crucial elements — shelf talkers listing scores, medals and brief wine descriptions — are almost nowhere to be found. These provide consumers with specific guidance, without which the sheer number of wine SKUs can be overwhelming.

Consider creating a comfy "Reader's Corner" in the larger stores (much like Starbucks) with display copies of wine publications and information on wine producers and regions. A bulletin board could be used to post wine columns from local newspapers, and notices of special in-store promotions could be displayed. This would also be a good place for displaying information about the health risks and benefits of wine and alcohol consumption.

Proposals To Improve the Merchandising of Wine in State Stores

1) Create four specifically defined store "clusters." The spirit community has already identified three clusters of stores for the spirit shelf reset. The wine program should use these three clusters as well, and define a "core" group of wines for sale in each. This would provide customers with a consistent look and selection for the stores in each cluster and provide a much easier shopping experience. The current HUB store program would become the fourth cluster, offering an expanded selection of wines.

2) Establish outlets to sell wines in new locations not currently served by other retailers. Airports in particular offer the opportunity to sell Washington state wines to customers not reached by supermarkets or

wine shops, such as travelers from out of state. The tourist or business traveler looking for a gift or souvenir on his or her way out of town will certainly be interested in buying a bottle or two of Washington state wine. Convenient one and two and four-bottle cardboard carry-ons would make this impulse purchase a lot easier.

3) In the larger state stores such as U-Village, create a "store within a store" featuring Washington state wines in a unique, dedicated area. Included would be educational materials such as maps, brochures and wine reviews from major publications and newspaper columnists.

4) Reduce the number of SKUs, and tighten the focus of all remaining inventory to highlight proven winners and regional assets. Prioritize:

- Top selling brands in each cluster
- Washington wines and wineries
- Other Pacific NW (Oregon, Idaho, B.C.) wines
- Varietal category leaders (Chardonnay, Pinot Gris, Riesling, Merlot, Cabernet Sauvignon and Syrah)
- Manager's Specials and private labels
- Special focus promotions (Zinfandel month, Australia month, sparkling wines for Thanksgiving/New Year's, etc.)

5) Do more attractive, customer-friendly in-store marketing:

- Updated, clear and useful signage
- Clear, well-marked price stickers (eliminate odd price points)
- Chalkboard "Manager's Specials"
- Readily available, helpful point of sale materials
- Reading areas with magazines, wine columns, reviews
- Add customer-service gift items to store inventory (corkscrews, wine bags, ice buckets, etc.)

Resources should be targeted at prime retail areas where a fresh new retail environment will have the greatest impact. A realistic goal is to target up to a half dozen locations per year.

6) Develop and post a "Mission Statement" in each store:

As a consultant and wine industry professional, Paul was admittedly "astonished" to find how little he understood the rules and regulations under which the LCB must operate. Imagine then how difficult it must be for the average customer. A concise, well-written Mission Statement

would explain, demystify and reach out to customers, inviting their feedback. This is standard business practice for any successful retail service-based venture. This Mission Statement should be a simple sign that encapsulates for the LCB:

- Who we are
- The rules and laws we operate under
- The services we provide
- The benefits we provide
- A toll-free phone number for customer feedback

7) Develop training programs for employees, working with suppliers whenever feasible to keep costs down. Investigate opportunities for self-funded educational tours and site visits.

8) Explore and develop effective (non-advertising) marketing and communications programs. Example: regular press releases to influential wine writers and wine publications. An in-house public relations arm exists and should be better utilized to reach out to the media with ideas for stories of interest to wine consumers.

9) Develop an ongoing, continuing relationship with an independent wine industry consultant who is not connected to any winery, importer, wholesaler or retailer. This individual could provide valuable feedback on implementing new wine programs, developing resources and effectively reaching new customers. In today's highly competitive retail environment, the state needs to be more pro-active and consumer-friendly.

Proposals To Address The Controversy About LCB Wine Sales

In a series of stakeholder interviews conducted during March, April, May and June of last year, it became clear that the fundamental question of whether the state should sell wine is still on the minds of some. Their feelings about this question are a direct reflection of how state wine sales affect their particular business.

Wholesalers and distributors and their representatives currently feel caught in a sort of no-man's-land, recognizing that the state is a boon to some of their clients, and a bane to others. The consensus seems to be that the current unresolved situation bothers them far more than a flat and final decision by the state to remain in the wine business would.

Retailers, particularly grocery chains, feel strongly that the state competes unfairly with them, particularly in terms of retail price. It is repeatedly stated that in their view there is no parity, since (with the exception of direct purchases from Washington state wineries, which are open to all) the state can sidestep the three-tier system, and they cannot. In addition, the state has regulatory power over the groceries, while at the same time competing with them. It was suggested in one interview that, short of a complete withdrawal from the wine business, the state could take the following steps to bring some parity to bear:

- 1) Purchase all of its wines from distributors, except in the case of Washington wines sold exclusively direct from the winery itself
- 2) Reduce shelf space devoted to wine, bringing it more in line with the actual percentage of income generated by state wine sales
- 3) Tighten its focus on the wines of the Pacific Northwest and Washington in particular, while eliminating, to some degree, brands from elsewhere that are widely available in other retail outlets

This question of pricing disparity was examined in depth in a recent study commissioned by the LCB to compare prices of 67 high-volume, mass market wines sold in state stores, major grocery chains, and price club volume discount outlets. The study concluded that "the Liquor Control Board, while offering highly competitive prices, is not always the lowest price seller, nor do they significantly undersell the least expensive chain store."

Whether or not this alleged pricing disparity actually exists in some instances, we strongly recommend that the LCB mitigate the appearance of unfair pricing and competition by clearly re-stating the current policy wherein the producer and distributor determine who will be the supplier of record to the LCB.

This should effectively put a stop to the criticism that the state holds an unfair edge in pricing, as it will be up to the winery and/or wholesaler to determine which of them is the supplier of record, with the capability of setting the selling price of the product to the WSLCB.

It should be noted that numerous differences, other than price, exist between private retailers and the WSLCB. Among them: advertising restrictions, merchandise restrictions, limited hours of operation and others. The idea of establishing some ephemeral "parity" is illusory,

because different retailers already operate under completely different laws and regulations. The state stores are merely one more element in what is already a very diverse mix of winery outlets, tasting rooms, specialty wine shops, grocery stores, convenience stores and warehouse stores.

A third major stakeholder group, the wineries themselves, seem to generally favor state sales. Washington state wineries especially benefit in many ways. The annual Washington Wine Month is a promotion that brings a lot of attention and publicity to the state's wine industry. The state wine program offers a unique channel of distribution to producers, a channel which serves wineries of every size. Year round, wineries too small to place product in chains and club stores find that the state offers them a viable distribution network. Recognizing that the vast majority of Washington's 275+ wineries fall into this "too small" category, state wine sales are clearly making a huge contribution to the overall health and diversity of the Washington wine industry.

Stakeholders Interviewed (see separate document for transcripts)

Steve Burns 206-667-9463 x202	Executive Director, Washington Wine Commission
Rob Griffin 509-627-0266	Owner, Barnard-Griffin Winery
Dave Derby 253-265-1701	National Accounts Manager, Trinchero Family Estates
Terry Adams . 425-883-3239	NW Manager, Stimson Lane Vineyards & Estates
Loren Jacobsen 1-800-859-9463	National Sales Manager, Hedges Cellars
Phil Remington 425-313-9093	Importer-Broker
Bob Stevens 206-622-7311	CEO, Western Washington Beverage
Jim Stephanson 425-339-3775	General Manager & VP, Friendly Distributing
Phil Wayt 360-352-5252	Executive Director, WA Beer and Wine Wholesalers Assoc.
Doug Henken 360-753-5177	President, Washington Food Industry
Bob Enloe 206-364-7681	President, Distillery Representatives Assoc. of Washington